



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : WP(C)/213/2017

SRI RAHUL MEME
S/O LT. UKO MEME, PRESENT RESIDENT OF CHETA-I VILLAGE, PO/PS
ROING, LOWER DIBANG VALLEY, AP. PHONE NO. 9402227300

VERSUS

THE STATE OF A.P. AND 3 ORS. REPRESENTED BY THE CHIEF SECRETARY,
AP, ITANAGAR

2:THE SECRETARY/COMMISSIONER

Age: 0

Occupation :

LAND MANAGEMENT GOVT. OF AP ITANAGAR. AP.

3:THE DEPUTY COMMISSIONER

Age: 0

Occupation :

LOWER DIBANG VALLEY DISTRICT ROING AP.

4:THE ESTATE OFFICER

Age: 0

Occupation :

LOWER DIBANG VALLEY ROING AP

Advocate for the Petitioner : Mr. S. Mow, M Opo, A. Linggi, N. Linggi

Advocate for the Respondent : GA(AP)

**BEFORE
HONBLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

JUDGMENT & ORDER (Oral)

Date : 07-03-2024

Heard Mr. S. Mow, learned counsel for the petitioner and Ms. T. Wangmo, learned Government Advocate for State respondents.

2. The petitioner has by way of instituting the present proceedings assailed an order dated 23.09.2016 passed by the ADC-cum-Estate Officer, Lower Dibang Valley District, Roing. The petitioner has also assailed an order dated 06.04.2017 passed by the Appellate Authority i.e. the Deputy Commissioner, Lower Dibang Valley, Roing. The said orders were so passed under the provisions of the Arunachal Pradesh Public Premises (Eviction of Unauthorised Occupant) Act, 2003 (hereinafter referred to as the Act of 2003).

3. The petitioner, was vide a notice dated 25.05.2016, issued by the ADC-cum-Estate Officer, under the provisions of Section 4 of the said Act of 2003 required to show cause as to why he would not be evicted from the plot of land as described therein on the ground that he had encroached upon Government land and constructed dwelling units, therein, without any allotment and/or prior approval from the authority concerned. The petitioner submitted his detailed reply to the said Show-cause notice and therein, has contended that the land as occupied by him was not allotted to any other authority and the petitioner on occupation of the said land which was not suitable for human habitation had developed the land and had constructed dwelling house and he and his family were staying there without any interference by the authorities concerned. The Estate Officer upon consideration of the reply as filed by the petitioner as well as by providing to him an opportunity of hearing proceeded vide the order dated 23.09.2016 to hold that the land in question was earmarked for the

Education Department and the petitioner was so occupying the land without any prior permission from the concerned authority and accordingly, directed the petitioner to vacate the said unauthorised occupation along with removal of the illegal structure so created, therein. Being aggrieved, the petitioner had instituted WP(C) No. 541/(AP)2016 before this Court against the order passed by the Estate Officer. This Court vide order dated 04.10.2016 on noticing that an appeal is provided for against an order passed by the Estate Officer, under the provisions of Section 12 of the said Act of 2003 was pleased not to entertain the said writ petition. Accordingly, the petitioner on 13.10.2016 preferred an appeal under Section 12 of the said Act of 2003 before the Deputy Commissioner-cum-Appellate authority, Lower Dibang Valley against the said order of the Estate Officer. The Appellate Authority upon consideration of the appeal and also hearing the appellant as well as the respondents, therein, proceeded vide order dated 06.04.2017 to hold that the appeal as preferred by the petitioner, herein, had no merit and accordingly, upheld the order of the Estate Officer. Being aggrieved by the said order passed by the Estate Officer as well as the Appellate Authority, the present proceedings were instituted by the petitioner before this Court.

4. The learned counsel for the petitioner during the hearing in the present proceedings has reiterated the submissions that he had raised before the Estate Officer as well as before the Appellate Officer. The petitioner has tried to highlight that the land as occupied by him did not come within the purview of the allotment as stated to have been made to the Education Department for the purpose of setting up of the Government High Secondary School at Roing, along with its hostel. The learned counsel for the petitioner has also submitted that the petitioner had submitted due applications before the authorities for allotment of the said land in his favour and such applications were pending consideration before the concerned authorities. It was contended that without arriving at a decision with regard to the applications as made by the petitioner praying for allotment of the land occupied by him, in his favour, the authorities have proceeded to invoke the provisions of the said Act of 2003 and

directed him to vacate the premises failing which he would stand evicted therefrom. In the above premises the learned counsel for the petitioner submits that this Court would be pleased to interfere with the order of the Estate Officer as well as the Appellate Authority under challenge in the present proceedings with further directions to the respondent authorities to immediately forthwith take steps for allotment of the said land occupied by the petitioner in his favour in terms of the applications made by him.

5. *Per-contra*, the learned counsel for the respondents have urged before this Court that the petitioner has been admittedly occupying Government land without any authority and accordingly, he being an unauthorised occupant, the proceedings as initiated against him under the provisions of the Act of 2003 was so done by the competent authority exercising jurisdiction in the matter. It was further submitted that the petitioner has miserably failed to bring on record any new fact other than that was urged before the Estate Officer and the appellate authority and accordingly, the order passed by the Estate Officer and the Appellate Authority being well reasoned orders, do not call for any interference by this Court. With regard to the plea of the petitioner that he had submitted applications for allotment of the said land as occupied by him in his favour, it is being categorically stated by relying on the affidavit so filed by the respondents that such applications were not received by the respondent authorities at any point of time. It is contended that such pleas were taken only with the present case in view.

6. I have heard the learned counsels for the parties and I have also considered the materials as available on record.

7. It is seen that the petitioner was given due opportunity as required under the provisions of the said Act of 2003 to have his say in the matter and it was after the petitioner was provided with due opportunity of submitting his reply as well as by affording to him an opportunity of hearing, the Estate Officer had proceed to pass the

order dated 23.09.2016. The petitioner has not brought on record any material to show that the authority/the Estate Officer has passed the order in violation of any of the provisions of the said Act of 2003. It is an admitted position that the petitioner has been occupying Government land without any prior permission from the authorities and the said land, at no point of time was allotted in his name or in the name of any of his predecessors.

8. In that view of the matter, this Court is of the considered view that the order dated 23.09.2016 passed by the Estate Officer and the order dated 06.04.2017 passed by the Appellate Authority in the matter does not call for any interference by this Court.

9. This brings this Court to a consideration of the plea raised by the petitioner that he had repeatedly made applications for allotment of the land as occupied by him in his favour, on the plea that such land was never allotted to any authority at any point of time. It is also the contention of the petitioner that the land as occupied by him is beyond the allotment as made in favour of the Government High Secondary School, Roing and as such, no other person having any claim over the said land, the applications as made by the petitioner for allotment of the said land ought to have been given its due consideration by the respondent authorities. It is seen from the pleadings as brought on record by the parties that the said land as occupied by the petitioner falls within the land area allotted to the said school. Further it is seen that the application as stated to have been made by the petitioner for allotment of the said land and made a part of the writ petition, does not reflect that the same was received by the concerned authority, inasmuch as the said application does not bear any acknowledgment or endorsement of the authorities as a mark of receipt of such applications. It is the categorical stand of the respondents in the affidavits as filed that no such application was received by the authorities from the petitioner praying for allotment of the said land in his favour at any point of time. The petitioner has not disputed the contention as made in the affidavit filed by the respondent by filing a

10. Be that as it may, the petitioner having been occupying the said land for considerable period of time, this Court is of the view that the petitioner is to be given an opportunity to make an application before the concerned authority praying for allotment of a plot of land in his favour.

11. Accordingly, the petitioner is directed to submit an application in the proper format before the concerned authority praying for allotment of a plot of land in his favour within 22.03.2024. In the event any such application is made by the petitioner praying for allotment of the said land occupied by him in his favour within 22.03.2024, the concerned authority shall duly consider the same and dispose of such application by way of a speaking order. It is to be noted that in the event it is found that the petitioner is a landless person, the concerned authority may consider the application of the petitioner and allot to him a plot of land other than the one presently occupied by him and which is also stated to have been allotted to the Department of Education.

12. The application as submitted by the petitioner shall be so disposed of by the concerned authority by way of a reasoned order within a period of 2 (two) months from the date of receipt of such application from the petitioner, along with the certified copy of this order. It is provided that in the event the petitioner proceeds to make an application for allotment of land in his favour within 22.03.2024, the order as passed by the Estate Officer and upheld by the Appellate Authority shall not be given effect to, till the disposal of such application by way of a speaking order.

13. With the above observations and directions, the writ petition stands disposed of.

JUDGE

Comparing Assistant