

GAHC040002562020

2024:GAU-AP:852



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

Case No. : WP(C)/88/2020

KIPA TAI
S/O KIPA KASSUNG, R/O POLO COLONY NAHARLAGUN, PAPUMPARE
DISTT, AP

VERSUS

1. THE STATE OF AP
REPRESENTED BY THE CHIEF SECRETARY, GOVT OF AP, ITANAGAR

2:THE SECRETARY(LAND MANAGEMENT)
Age: 0
Occupation :
GOVT OF AP
ITANAGAR

3:THE DEPUTY COMMISSIONER
Age: 0
Occupation :
PAPUMPARE DISTT
YUPIA
AP

4:THE DLR SO
PAPUMPARE DISTT

Age: 0
Occupation :
YUPIA
AP

5:THE EAC

Age: 0
Occupation :
PAPUMPARE DISTT
BALIJAN
AP

6:SATISH CHANDRA CHAKMA

Age: 0
Occupation :
S/O KANDRE CHAKMA
R/O CHAKMA
NO. 2
KOKILA VILLAGE
PO/PS BALIJAN
PAUMPARE DISTT
A

Advocate for the Petitioner : Nalo Pada, Id. Adv.

Advocate for the Respondent : Ms. G. Ete, Id. Sr. Advt.,
Mr. D. Kamduk, Id. S.C,
Mr. A. Tatak, Id. Adv.

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

Date of hearing : 07.06.2024

Date of Judgment : 18.09.2024

JUDGMENT & ORDER (CAV)

Heard Mr. N. Pada, learned counsel for the petitioner. Also heard Ms. G. Ete, learned Additional Senior Government Advocate for the respondent Nos. 1, 3, 4 & 5; Mr. D. Kamduk, learned Standing Counsel, Land Management Department for the respondent No.2 and Mr. A. Tatak, learned counsel representing the private respondent No.6.

2. This application is filed under Article 226 of the Constitution of India,

seeking the issuance of a writ in the nature of Certiorari or Mandamus, or any other appropriate writ, order, or direction. The application addresses irregularities and discrimination in recording the name of the beneficiary/landowner of plot No. 111 in the Ground Assessment Sheet for payment of compensation related to the Greenfield Airport project at Hollongi, near Chakma No. 2, Kokila village, under the Balijan Circle of Papumpare District, Arunachal Pradesh.

3. The brief facts of the case is that; the petitioner purchased an area of land measuring 10 (ten) Bighas from Mr. Satish Chandra Chakma (respondent No.6) on 10.11.2009 for Rs. 2,25,000 (Rupees two lakhs twenty-five thousand) only. This land is located at Chakma No. 2, Kokila Village, under the Balijan Circle of Papumpare District, Arunachal Pradesh.

4. In 2012, the petitioner discovered that plotting and numbering of land in the area where his land is located had been carried out. However, he was not informed about this survey, measurement and verification as he was out of the Capital Complex and was in Koloriang at that time. Consequently, his land was not plotted and numbered by the authority responsible for the Ground Assessment at Greenfield Airport Hollongi, where the land is situated. On 12.12.2012, he filed a representation before the Land Revenue and Settlement Officer, Papumpare District, Yupia [for short 'LR & SO'], requesting that a plot number be assigned to his land. Subsequently, the respondent authorities visited, verified, and assessed the land, assigning it plot No. 111. But, his shock, the owner of plot No. 111 was recorded as Mr. Satish Chandra Chakma, i.e. the respondent No.6 instead of Mr. Kipa Tai, the present petitioner.

5. Aggrieved by the incorrect recording of the owner, the petitioner filed a

representation before the Deputy Commissioner, Papumpare District, Yupia on 09.09.2014, requesting that the name on the Ground Assessment Sheet for Plot No. 111 be corrected as Kipa Tai, present petitioner. The respondent authorities, acting on this representation, issued a notice to Mr. Satish Chandra Chakma on 15.09.2014, asking him to appear at the office on 19.09.2014. The respondent No.6 complied with the notice and attended the office of the DLRSO, but no hearing or proceedings were conducted on that day. No fresh notice was issued, and no hearing has taken place to date. The petitioner submitted the required documents regarding plot No. 111, but there has been no solution. He also filed an additional representation on 24.01.2019, detailing his grievances, but this representation has not been considered by the concerned authority.

6. It is noted that other similarly situated individuals have already received compensation for their lands, and compensation for another plot belonging to the petitioner has been paid. However, no compensation has been provided for plot No. 111, depriving the petitioner from his rightful/lawful claim. Aggrieved by the discriminatory treatment, the petitioner filed a writ petition being numbered as WP (C) No. 75 (AP) 2019, which was heard and disposed of on 28.02.2019 with a direction to the Deputy Commissioner, Papumpare District, Yupia, to consider and dispose of the representation submitted on 24.01.2019 within three weeks. The Deputy Commissioner rejected this representation on 02.04.2019, citing that the Sale Deed dated 10.11.2009 between the petitioner and the proforma respondent was not registered.

7. In response, the petitioner executed a Gift Deed before the Executive Magistrate, Papumpare District, Balijan on 10.07.2019 and submitted a copy of this deed along with a fresh representation on 31.07.2019. Despite this, the grievances remain unaddressed, and the fresh representation is still pending.

8. Despite repeated requests and representations, the respondent authorities have not addressed the grievances of the petitioner. As a result, the petitioner has filed this writ petition, seeking a direction to the respondent authorities to rectify the name of the landowner, i.e. the name of the present petitioner for plot No. 111 in the Ground Assessment Sheet, to give effect to the Notice dated 15.09.2014 issued vide No. DLRSO/PP/GFA/ Hearing-2014, and to pay adequate compensation, for Plot No. 111 in relation to the Greenfield Airfield, Hollongi.

9. Mr. Pada, learned counsel for the petitioner, has submitted that Satish Chandra Chakma, i.e. the respondent No.6 was provided compensation for his plot No. 126, but no compensation was provided for plot No. 111, as the said plot No.111 has already been sold to the present petitioner. In this regard, he has also filed an additional affidavit to clarify the issue. Moreover, respondent No. 6 stated in his additional affidavit that he never signed on any document for compensation related to plot No. 111. There is no record with the concerned department indicating that compensation was paid for plot No. 111, either to respondent No. 6 or to the petitioner. It is further submitted that, at the time of the plotting and verification of the land, the petitioner was not present in the locality. Upon learning about the incorrect allotment of plot No. 111, he immediately made a representation/complaint before the LR & SO, Yupia. Thereafter, subsequent representation was also disposed of without hearing either the petitioner or respondent No. 6, and no adequate opportunity was given to either party to participate in the hearing process based on the representation.

10. On the other hand, Mr. Kamduk, learned Standing Counsel for respondent No. 2, submitted that the Sale Deed in question was not registered and lacks signatures. Based on this, the Deputy Commissioner of Papumpare District,

Yupia, rejected the petitioner's representation on 02.04.2019. Additionally, the Gift Deed was executed on 10.07.2019, only after the land assessment and the rejection of the petitioner's representation. He submits that there are discrepancies in the execution of both the Sale Deed and the Gift Deed, as noted in the petitioner's complaint/representation. Furthermore, he contends that the petitioner's representation was made solely to obtain compensation from the government through respondent No. 6, and that there is nothing to reconsider in the petitioner's representation, as it has already been addressed by the concerned department.

11. In this regard, Ms. Ete, learned Senior Government Advocate for the respondents Nos. 1, 3, 4, and 5, has submitted both verbally and through an affidavit-in-opposition that a ground survey and assessment were conducted following Public Notice No. LM/PP/GFA-12 dated 26.09.2012. This notice provided a 30 days period for claims and objections from landowners regarding the proposed land for the Green Field Airport at Hollongi, Baliyan Circle, Papumpare District. In response to this notice, all landowners attended and participated in the survey and assessment process, during which they recorded their plot details before the assessment committee. The Board Committee, headed by the Extra Assistant Commissioner of Baliyan Circle, documented each landowner's details and prepared a compensation estimate for the land and assets of each plot. The plot in question was also claimed by Shri Satish Chakma (respondent No. 6), whose name was entered and signed against Plot No. 111. As per the rules, his name was included in the compensation list in 2012.

12. Furthermore, she submitted that the District Administration had already conducted an exhaustive field survey and assessment and issued several orders,

including a prohibitory order under Section 133 of the Cr.P.C., vide Order No. NIL dated 23/09/2012, preventing any encroachment on the earmarked land for the Green Field Airport. Additionally, the list as per the final notification Vide No. LM-100/2012 dated 17.10.2014, was also disposed by the State Government in PIL No. 6 (AP)/2013 dated 03.05.2013, PIL No. 22 (AP)/2015 dated 22.01.2015, and also in several RTI queries.

13. It is further submitted that compensation was disbursed according to the final notification dated 17.10.2014, and the final compensation list named the owner of Plot No. 111 as Shri Satish Chandra Chakma (respondent No. 6), not the present petitioner, Shri Kipa Tai. Accordingly, an area measuring 14,188 sq. meters was allocated to Shri Satish Chandra Chakma under the Rehabilitation and Resettlement LARR Act-2013. In compliance with the judgment and order passed by this Court, the Deputy Commissioner-cum-District Collector, Papumpare, issued an order, vide Letter No. DC/PP/GFA-12 (pt-3) 2019 dated 08/03/2019, for the field verification of Plot No. 111. The field verification found that the land claimed by the petitioner falls under the category for Rehabilitation and Resettlement, which had already been allocated to Shri Satish Chandra Chakma as per the direction issued by the National Human Rights Commission (NHRC) Delhi, vide letter No. 32/2/10/2013 dated 28.08.2013 filed by Shri Shadan K. Chakma. Consequently, the Deputy Commissioner-cum-District Collector issued Order No. LM/PP/GFA-12 (PT-3) dated 02.04.2019, disposing of the matter.

14. Ms. Ete, learned Senior Government Advocate for the respondents further submitted that the Gift Deed was unauthorized in the eyes of the law, and this was taken into account during the verification and disposal of the petitioner's representation. She also noted that during the land assessment and verification,

respondent No. 6 claimed ownership of the land and was listed as one of the beneficiaries in the compensation list.

15. On the other hand, Mr. Tatak, learned counsel for private respondent No. 6, has submitted that he sold the land to the petitioner in the year 2009. He further submitted that although Plot No. 111 was recorded in his name, he never received any compensation for it, although he did receive compensation for Plot No. 126. It is also admitted that in compliance with the notice dated 15.09.2014, he attended the District Land Revenue Settlement Office (DLRSO), but no hearing was conducted that day due to a busy schedule, and no statement was recorded by the settlement committee. Thereafter, both the present petitioner and the respondent No.6 executed a Gift Deed in favor of the petitioner, which was formalized before the Executive Magistrate on 10.07.2019, where both parties have put their signature. Therefore, respondent No. 6 has no liability or responsibility regarding Plot No. 111 as claimed by the petitioner. The matter should be resolved between the respondent authorities and the petitioner.

16. Filling the additional affidavit, respondent No. 6 stated that he obtained a document in respect to be a Ground Assessment Sheet for Plot No. 111, which is located at Green Field Airport, Holongi, Kokila under Balijan Circle, Papumpare District, dated 09.10.2012. He clarified that his attendance during the ground verification on 09.10.2012 was only related to Plot No. 126 and not Plot No. 111, which he had already sold and transferred to the petitioner in the year 2009. Moreover, the signature showing respondent No. 6 as the owner of Plot No. 111 is allegedly forged, as he never signed as the owner of Plot No. 111. Additionally, the ground assessment sheet lacks signatures from any relevant

authorities such as the Land Revenue & Settlement Officer (LR & SO), ADO Yupia, and HDO Yupia, suggesting that it may be a forged or manufactured document. Respondent No. 6 also never received any compensation for Plot No. 111. Any disputes or discrepancies concerning Plot No. 111 should be addressed between the state authorities and the petitioner, the actual owner of the land. Furthermore, the authorities have failed to provide documentation proving compensation payment for Plot No. 111. He further submits that the respondent No. 6 should not be unnecessarily dragged into this case, as he sold Plot No. 111 to the petitioner and never claimed or received compensation for this land.

17. In this regard, Ms. Ete, learned Additional Senior Government Advocate, has submitted that plot No. 111, which belongs to respondent No. 6, falls under the category of a rehabilitation and resettlement area. The government has already offered a piece of land in exchange for plot No. 111 to respondent No. 6, and initially, he agreed to receive a plot of land measuring 14,188 sq. meters under the scheme for the rehabilitation of Chakma people in exchange for plot No. 111. However, he subsequently refused to take possession of the said land without providing any reasons. Accordingly, it is submitted that the government is not responsible for paying any compensation for plot No. 111 to the present petitioner as claimed, and the matter has already been settled since respondent No. 6 was offered a land exchange for Plot No. 111.

18. After hearing the submissions made by the learned counsels for both sides and on perusal of the case record and annexures filed with the petition, it is evident that the original owner of Plot No. 111 was respondent No. 6, Mr. Satish Chandra Chakma. The petitioner purchased the land in 2009 by executing a Sale Deed. However, during the ground assessment at Green Field Airport, Hollongi, the petitioner was not informed and could not attend the meeting as he was

outside the Capital Complex.

19. Further, it is seen that the respondent No. 6 admitted in his affidavit-in-opposition and through an additional affidavit that he had already sold Plot No. 111 to the petitioner. He also stated that he never received any compensation for the land nor signed any documents claiming ownership of the plot in question. However, respondent No. 6 admitted that he received compensation for Plot No. 126, not for Plot No. 111, which belongs to the petitioner.

20. Furthermore, the petitioner filed a writ petition numbered WP(C) No. 75(AP)/2019, which was heard and disposed of on 28.02.2019. The Court directed the Deputy Commissioner of Papumpare District, Yupia, to consider and dispose of the representation submitted by the petitioner on 24.01.2019 within three weeks. The Deputy Commissioner, however, rejected the representation without a hearing, stating that the Sale Deed dated 10.11.2009 was not registered and does not carry any evidentiary value. The Gift Deed was created only after the land assessment, and was not presented to the settlement committee at the time of settlement.

21. The respondent authorities, including respondent No. 2, i.e. the Land Management Department, claim that the respondent No. 6 attended the meeting during the allotment process and verified the land in his presence. He allegedly signed as the owner of Plot No. 111. However, respondent No. 6 contends that he never claimed or received compensation for Plot No. 111 and stated that he had already sold the land to the petitioner.

22. After the rejection of the representation, both the petitioner and respondent No. 6 executed a Gift Deed in favor of the petitioner. Records indicate that Plot No. 111 falls under the category of rehabilitation and

resettlement for Chakma people. During field verification, it was noted that respondent No. 6 was allotted another plot in exchange for Plot No. 111, but he refused the offer.

23. Therefore, Plot No. 111, claimed by the petitioner, is categorized under rehabilitation and resettlement. As directed by the National Human Rights Commission (NHRC), Delhi, the Deputy Commissioner-cum-District Collector, Yupia issued an order providing another plot measuring 14,188 sq. meters to Respondent No. 6. Consequently, compensation for Plot No. 111 cannot be granted as it falls under a category for which the government has the authority to offer alternative land rather than monetary compensation.

24. In the given the circumstances, the respondent authority is not in a position to pay compensation for Plot No. 111. The petitioner's representation was rejected on the grounds that the Sale Deed executed by respondent No. 6 was not registered, and it was acknowledged that the land had been settled with specific owner.

25. Thus, in such a situation, this Court finds no grounds to direct the respondent authorities to reassess the land or to award compensation for plot No. 111, which admittedly falls under the category of rehabilitation and resettlement area. Furthermore, from the discussion above, it is evident that respondent No. 6, who was the original landowner of plot No. 111, provided another plot of land measuring 14,188 sq. meters in exchange for plot No. 111, though he refused the same. Being a member of the Chakma community, only the respondent No.6 is entitled to rehabilitation as per the order issued by the National Human Rights Commission, Delhi.

26. However, it is the admitted position that the plot No.111 was sold/gifted to

the petitioner by the respondent No.6. But, as a Writ Court, this Court cannot go into the detail of the factual aspects of the matter and hence, remedy is before the Civil Court. The parties may appear before the civil forum for proper redressal, if so advised. Accordingly, this Court's interference is not at all required in the instant writ petition and the same stands dismissed.

27. With above observations, this writ petition stands disposed of.

JUDGE

Comparing Assistant