

GAHC040002712024



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

Case No. : WP(C)/89/2024

Pacheng Panyi
resident of Cooperative Line, Tuting, PO and PS Tuting, Upper Siang District,
Arunachal Pradesh

VERSUS

The State of AP and 3 Ors
represented by the Chief Secretary, Govt of Arunachal Pradesh, Itanagar

2:The Secretary,
Land Management Department, Govt. of Arunachal Pradesh, Itanagar

3:The Deputy Commissioner
Yinkiong, P.O/P.S Yingkiong, District Upper Siang, Arunachal Pradesh.

4:The Estate Officer
P.O/P.S. Tuting, Upper Siang District, Arunachal Pradesh.

Advocate for the Petitioner : Nikita Danggen

Advocate for the Respondent : GA (AP)

BEFORE

HONBLE MR. JUSTICE KAKHETO SEMA

ORDER

Date : 29-02-2024

Heard Mr. O. Duggong, learned counsel for the petitioner, Ms. G. Ete, learned Addl. Sr. Government Advocate for the State respondents No. 1 3, & 4 and Mr. D. Kamduk, learned Standing counsel, Land Management for the respondent No. 2.

The present writ petition is disposed at the motion stage with the consent of the learned counsel for the parties.

The case of the petitioner in brief is that the petitioner is in occupation of the land measuring around 144 sq. mtrs. at Co-operative Line Tuting. On the said land, the petitioner has constructed a small RCC building for residential-cum-commercial purpose. On 14/07/2023, the Circle Officer, Office of the Additional Deputy Commissioner, Tuting, Upper Siang District, issued the letter to the petitioner directing him to remove the un-authorized structure within a period of 7(seven) days failing which the petitioner was informed that eviction would be initiated against the petitioner and the expenditure for the eviction shall be borne by the petitioner. Against the letter dated 14/07/2023 issued by the Circle Officer, Tuting, the petitioner filed W.P.(C) No. 328(AP)/2023 before this Court which was disposed by the order dated 18/07/2023 setting aside the letter dated 14/07/2023 and granting liberty to the respondent authorities to proceed against the petitioner in accordance with the provision of the Arunachal Pradesh Public Premises (Eviction of Un-authorized Occupants) Act, 2003, if the petitioner is found to be in occupation of any public premises.

Consequent to the order dated 18/07/2023 passed by this Court, the Estate Officer, Upper Siang District, Tuting issued the letter dated 25/07/2023 under Sub-section-(i) and Clause-(b)(ii) of section-4 of the Act, 2003 requiring the petitioner to appear before the Estate Officer and to answer all material questions in connection with the case. The petitioner accordingly by the letter dated 07/08/2023 replied to the show cause notice dated

25/07/2023 stating therein that he has not occupied any Government land and therefore, requested the Estate Officer to recall the show cause notice dated 25/07/2023. The Estate Officer, Upper Siang District, Tuting however issued the letter dated 09/08/2023 directing the petitioner to demolish the erected structure on the land on or before 16/08/2023 as the petitioner had failed to produce any documentary evidence or otherwise to prove his lawful ownership on the land.

Against the letter dated 09/08/2023, the petitioner submitted the appeal to the Deputy Commissioner, Yingkiong, Upper Siang District, Arunachal Pradesh under section 12 of the Act, 2003. The Deputy Commissioner after hearing the petitioner as well as the Estate Officer, Tuting passed the impugned order dated 09/10/2023 dismissing the appeal filed by the petitioner against the finding of the Estate Officer, Tuting. The findings and the observations of the Deputy Commission in the order dated 09/10/2023 is reproduced here below;

"The counsel for the appellant could not produce before this court any evidence to substantiate his claim that the land under his client's occupation since 1998 is a private land over which has proprietary ownership right.

It is observed that the land for Tuting Township has been denoted voluntarily and free of cost by the public for setting up of Administrative post and Govt.

Establishments. Accordingly, a preliminary Notification was issued on 08.09.2008.

No objection was filed by the appellant against the Preliminary Notification. Since then, the Tuting Township land is under the control of the Govt.

The counsel for the appellant had also pointed out that the Preliminary Notification vide no. LM-35/2008 dated 08/09/2008 has been issued by the Govt. for acquisition process could not be completed so the land is private land.

I am inclined to believe that the land for Tuting Townships has already been donated by the public to the Govt. though the land acquisition process did not proceed further after Preliminary Notification and as there was no claim or objections raised from any individual or community, the land was brought under

the possession and control of the Govt. land Plots were awarded to Govt.

Department for their establishments. Some allotments were also made to private individuals for residential & commercial purposes. And as such, the land under Tuting Township comes under the definition of 'Public Premises'.

On examination of the case records related to Eviction Case No. YKG/EO- 01/2023 in State Vrs Shri Pacheg Panyi under the EO, Tuting, I am convinced that due process of law and opportunity of being heard were followed as per the provisions laid down under the APPP (Eviction on Unauthorised Occupants) Act, 2003.

Considering the above facts and circumstances of the case, I am inclined to believe that there is no valid reason to intervene in the proceedings of the Estate Officer, Tuting with regards to the eviction Order Dtd 12.05.2023. the Appeal filed by Shri Pacheng Panyi (Appellant) Dtd 18.05.2023 stands dismissed being found to be devoid of merit.

The case stands disposed of. Given under my hands and seal of this court on this day of 9th October 2023."

Mr. O. Duggong, the learned counsel for the petitioner has submitted that the land from which the petitioner is sought to be evicted is not a Government land, therefore and neither the Estate Officer could have issued the impugned letter dated 09/08/2023 nor the Deputy Commissioner, Upper Siang District, Yingkiong could have issued the order dated 09/10/2023, for evicting the petitioner from the land in question.

On a pointed query by this Court, the legal basis of the petitioner for claiming the land, the learned counsel for the petitioner has submitted that the petitioner has been in occupation of the said land measuring 144 Sq. mtres, since the year 1998. The learned counsel for the petitioner, however, has not been able to adduce any documentary or other materials to substantiate the lawful ownership of the petitioner on the land in question.

Ms. G. Ete, the learned Additional Senior Government Advocate, on the other hand,

submits that pursuant to the order dated 18/07/2023, passed by this Court in WP(C) 238 (AP)/2023, as the land which the petitioner has illegally occupied is a Government land, all recourse under law had been taken by the Estate Officer, Upper Siang District, Tuting, to evict the petitioner from the land in question by issuing the letter dated 09/08/2023, and also by the Deputy Commissioner, Yingkiong, Upper Siang District by issuing the Order dated 09/10/2023. The learned Government Advocate submits that there is no infirmity in the impugned letter dated 09/08/2023 as well as the impugned order dated 09/10/2023 and therefore, the respondent authorities should be allowed to evict the petitioner in terms of the order which is impugned in the writ petition.

Heard the learned counsel for the parties.

The only ground advanced by the petitioner for claiming the land in question is that he has been in possession of the said land since the year 1998 by constructing a small RCC building for residential-cum-commercial purpose. Besides, claiming the possession, the learned counsel for the petitioner has not been able to produce any valid documents establishing the petitioner's right on the land. This Court has also perused the letter dated 09/08/2023, issued by the Estate Officer, Upper Siang District, Tuting as well as the order dated 09/10/2023, passed by the Deputy Commissioner, Upper Siang District, Yingkiong, Arunachal Pradesh.

Considering that the procedures provided under the Act of 2003 has been followed both by the Estate Officer and the Deputy Commissioner in issuing the letter dated 09/08/2023 and passing the order dated 09/10/2023, no interference is called for against the said letter dated 09/08/2023 as well as the order dated 09/10/2023.

However, as the subject matter of the case before this Court is with regard to the land where the petitioner is claiming his right, title and interest on the land, this Court, in the interest of justice, deems it appropriate to provide every opportunity to the petitioner to agitate his grievance before the competent civil court, if so advised. All contentious issues

pertaining to the rights over the land raised by the petitioner as well as by the State respondents shall be taken into consideration and adjudicated by the competent civil court in accordance with law.

The petitioner if so advised shall approach the competent civil court within a period of 30 days from today.

The parties shall maintain status-quo on the land in question for the period of 30 days from today.

It is made clear that the trial court shall not be influenced by any of the observations made by the court in this order.

Writ petition accordingly stands disposed.

JUDGE

Comparing Assistant