



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

Case No. : WP(C)/129/2021

Domin Sora and 26 Ors.
S/o Late Mardo Sora, aged about 55 years,
village Taba Sora, PO/PS Aalo, District West Siang, AP

2: Luksar Ronya
Age:
Occupation :
aged about 45 years
village Doko Putu PO/PS Liromoba District West Siang AP

3: Lido Padu
Age:
Occupation :
village Darka PO/PS Aalo District West Siang AP

4: Tapak Hiba
Age:
Occupation :
age about 42 years village Kaying/Tato PO/PS Kaiying District Siang AP

5: Moji Sora
Age:
Occupation :
age about 37 years village Taba Sora PO/PS Aalo District West Siang AP

6: Jego Ori
Age:
Occupation :
aged about 45 years village Yami PO/PS Aalo District West Siang AP

7: Jumpe Bagra

Age:
Occupation :
D/o Shri Kiju Bagar aged about 57 years
village Bagra PO/PS Aalo District West Siang AP

8: Domo Padu
Age:
Occupation :
aged about 45 years
village Darka PO/PS Aalo District West Siang AP

9: Kirken Lomi
Age:
Occupation :
S/o Shri Kirkom Lomi
aged about 50 years
village Eyi PO/PS Aalo District West Siang AP

10: Ida Bagra Age:
Occupation :
S/o Shri Kari Bagra
aged about 46 years
village Bagra PO/PS Aalo District West Siang AP

11: Kenkir Bomjen
Age:
Occupation :
S/o Mr. Reken Bomjen aged about 50 years
village Beye PO/PS Aalo District West Siang AP

12: Geli Bagra
Age:
Occupation :
S/o Lt. Kige Bagra aged about 40 years
village Jimar PO/PS Aalo District West Siang AP

13: Dumin Ingo
Age:
Occupation :
S/o Late Tadu Ingo age about 35 years
village Logum Jini PO/PS Aalo District West Siang AP

14: Minto Ete
Age:
Occupation :
S/o Shri Kirmin Ete aged about 36 years

village Darka PO/PS Aalo District West Siang AP

15: Nyumli Sora

Age:

Occupation :

S/o Late Dagnyum Sora age about 53 years

village Taba Sora PO/PS Aalo District West Siang AP

16: Moi Ori

Age:

Occupation :

S/o Late Gomo Ori age about 48 years

village Mugli-Pagyor PO/PS Aalo District West Siang AP

17: Kento Ori

Age:

Occupation :

S/o Late Gaken Ori age about 50 years

village Mugli-Pagyor PO/PS Aalo District West Siang AP

18: Tanya Rinya

Age:

Occupation :

S/o Late Tatak Rinya age about 49 years

village Tato PO/PS Tato District Shi yomi AP

19: Lipor Ori

Age:

Occupation :

S/o Shri Binli Ori aged about 52 years

village Yigi Kaum PO/PS Aalo District West Siang AP

20: Tanyang Heyo

Age:

Occupation :

S/o Shri Tabu Heyo age about 40 years

village Heyo PO/PS Tato District Shi Yomi AP

21: Rigbin Zirdo

Age:

Occupation :

W/o Shri Kekjar Ronya age about 43 years

village Doko Putu PO/PS Liromoba District West Siang AP

22: Tori Ragyor

Age:

Occupation :
S/o Lt. Eka Ragyor aged about 47 years
village Tagur PO/PS Tato District Shi Yomi AP

23: Gitum Ori
Age:
Occupation :
S/o Shri Mogi Ori age about 32 years
village Mugli PO/PS Aalo District West Siang AP

24: Kirto Ori
Age:
Occupation :
S/o Shri Mokir Ori age about 25 years
village Kigi Kaum PO/PS Aalo District West Siang AP

25: Gope Ronya
Age:
Occupation :
S/o Shri Dugo Ronya age about 48 years
village Doko Putu PO/PS Liromoba District West Siang AP

26: Nyayo Ete
Age:
Occupation :
D/o Shri M. Ete age about 40 years
village Darka PO/PS Aalo District West Siang AP

27: Nyaken Tato
Age:
Occupation :
S/o Shri T. Tato age about 28 years
village Keak PO/PS Kamba west Siang District AP

VERSUS

The State of AP and 4 Others
represented by the Secretary, Land Management, Govt. of AP, Itanagar

2:The Director Land Management
Age: 0
Occupation :
Govt. of AP Itanagar

3:The Deputy Commissioner
Age: 0

Occupation :
Aalo West Siang District Arunachal Pradesh

4:The District Land Revenue and Settlement Officer
Age: 0
Occupation :
Aalo District west siang District AP

5:The Commandant
Age: 0
Occupation :
HQ 44th BRTF Aalo Unit District West Siang AP

Advocate for the Petitioners : T T Tara, T. Kamchi

Advocate for the Respondents : D. Kamduk, S/C LM; Ms. G. Ete, Addl. Sr. GA (AP)

BEFORE
HONBLE MR. JUSTICE MANASH RANJAN PATHAK

ORDER

Date : 25-06-2024

Heard Mr. T. Kamchi, learned counsel for the petitioners and Mr. D. Kamduk, learned Standing counsel for the Department of Land Management, Government of Arunachal Pradesh for the respondent Nos. 1 & 2. Also heard Ms. G. Ete, learned Additional Senior Government Advocate for the respondent Nos. 3 & 4 and Mr. M. Kato, learned DySGI for the respondent No. 5.

2. It is contended by the petitioners that the Border Road Task Force (BRTF, in short) was allotted land measuring 1,69,771.65 Sqm at Aalo by the District Administration Aalo, West Siang District, Arunachal Pradesh and under the guise of such land allotment, the BRTF is illegally occupying around 23,513.07 Sq.mtrs of land in excess then the land actually allotted to them. Petitioners also contended that the respondent BRTF have also constructed boundary wall covering the land

measuring 1,93,284.72 Sq.mtrs.

3. Petitioners stated that prior to such illegal occupation of said land by the 44th BRTF, it was under their occupation and they in the year 1986 had applied for allotment of land under their occupation at Aalo for residential purpose. Their said applications for allotment of said land was considered and approved by authority concerned in the District Administration of West Siang District. Accordingly, on the recommendation of the District Administration, West Siang District, made on 14.12.2012 and on obtaining necessary Government approval, the Director of Land Management, Government of Arunachal Pradesh vide No. LM-46/2012(Vol-I)/9505 dated 27.01.2013 allotted Government land at Aalo township to the petitioners on lease for the period of 30 years subject to payment of land premium and annual lease rent as fixed by the Government from time to time and fulfilment of other terms and conditions for allotment of Government land. Accordingly, the Deputy Commissioner and the District Land and Revenue Settlement Officer of Aalo, West Siang District, Arunachal Pradesh issued land allotment passbook to the petitioners with specific location near Goye Hissam at Aalo with specific area of land, ranging from 210 to 432 Sq.mtrs., to each of the petitioners for their residential purpose as been allotted by the Land Management Department of the State on 27.01.2013.

4. As the petitioners claiming that some of the allotted land to them by the Government on 27.01.2013 are still in occupation of the 44th BRTF, Aalo unit, they on 28.09.2015 submitted a representation before the Deputy Commissioner, West Siang District, Aalo and the said authority on 12.11.2015 passed an order directing the Land Management staff to cross-verify the said land and to furnish a detailed report.

5. It is stated by the petitioners that as the said order of the Deputy

Commissioner, West Siang District, Aalo, dated 12.11.2015, was not carried out by conducting the cross-verification process of their land, they as petitioners filed a writ petition being WP(C)No. 41/(AP)2020 (*Shri Domin Sora and 27 Ors. Vs. the State of Arunachal Pradesh and 3 Ors.*). The Court after hearing the parties by order dated 09.03.2020 disposed of their said WP(C)No. 41(AP)2020, directing the Deputy Commissioner, West Siang District, Aalo to complete the process of cross-verification of the land of the petitioners within next two months from the date of the receipt of the certified copy of the said order.

6. Petitioners submitted that on **15.07.2020** cross-verification of land with the 44th BRTF at Aalo was done but during such verification, land at plot No. 1 was only verified, but the Committee concerned did not cross-verify the land at plot No. 2 at Aalo, allotted to the BRTF.

7. Since, during such cross verification of Plot No. 1, land measuring 1,044 Sq.mtrs have been found to be excess in possession of the petitioners, the respondent District Administration, West Siang District Aalo vide Memo No. LM/WS-19/2020/959 dated 17.08.2020 recommended to the State Government for cancellation of Government approval of land allotment orders of the petitioners.

8. It is urged by the petitioners that the Deputy Commissioner, Aalo, while making such recommendation on 17.08.2020 for cancellation of Government approval of their land allotment orders did not give them any opportunity to defend their case and to explain as to why recommendation for cancellation of allotment of land to them should not be cancelled.

9. Being aggrieved with said action, the petitioners preferred this writ petition praying amongst others to set aside and quash the communication of the Deputy Commissioner, Aalo under Memo No. LM/WS-19/2020/959 dated 17.08.2020

recommending cancellation of Government approval of land allotment orders of the petitioners being in violation of the principle of natural justice and also the cross-verification report dated 15.07.2020.

10. The respondent Nos. 3 & 4, i.e., the Deputy Commissioner, Aalo and the District Land and Revenue Settlement Officer, Aalo jointly as well as the Commander Headquarter 44th BRTF, Aalo Unit, respondent No. 5 filed their respective affidavits to which the petitioners have filed their rejoinders. The respondent Nos. 1 & 2 in the Land Management Department of the State are relying with the statements made on behalf of the respondent Nos. 3 & 4.

11. Perused the affidavits of the respondents and also the rejoinders of the petitioners.

12. Pursuant to the order of the Court dated 09.03.2020 passed in WP(C) No. 41 (AP)/2020, it is seen that the Deputy Commissioner, West Siang, District, Aalo on 01.07.2020 directed the District Land Revenue and Settlement Officer (DLRSO), Aalo to make necessary cross-verification on the disputed land along with the BRTF representatives in presence of the petitioners.

13. Accordingly, on 06.07.2020 the DLRSO, Aalo with the staff of Land Management Office, Aalo conducted the cross-verification and measurement of the land at Aalo, under dispute, as been raised by the petitioners and such cross-verification was carried out in presence of the petitioners, authorities of the BRTF, personnel from the Land Management Office, Aalo and DLRSO, Aalo.

14. The petitioners produced their land allotment papers along with land allotment map, showing details of each plot of their land, allotted to them by the Government. Similarly, the BRTF officials also presented their land allotment papers along with its map as been allotted to them.

15. During such cross-verification of land, the land allotment documents submitted by the BRTF revealed that the Government by order No. WS/REV-04/86 dated 29.01.1988 allotted all together an area of 1,43,683.62 Sq.mtrs at Aalo , out of which 25,875 Sq.mtrs is in Plot No.1 and 1,17,763.62 Sq.mtrs in Plot No.2.

16. Handing and taking over of the said land between the Deputy Commissioner, Aalo and BRTF C/O 99 APO took place on 20.09.1989.

17. The officials from the 44 BRTF Head Quarters also placed that earlier cross-verification was conducted jointly by the representative of the DC Office, Aalo and the BRTF on 19.11.2015 as per the order of the Deputy Commissioner, Aalo vide No. LM-WS-03/12-13/04 dated 12.11.2015 and during the said survey, it was found that BRTF are in possession of land measuring only 1,42,066.539 Sq.mtrs that is less than the actual land allotted to them by the Government against 1,43,683,62 Sq.mtrs, which is less by 1,572.081 Sq.mtrs and therefore, the BRTF placed before the verification authorities that the allegation of the petitioners that excess land is under occupation of BRTF does not arise.

18. During cross-verification from the land document submitted from the petitioners side it was seen that the Government vide No. LM-46/2012(Vol-I)9505 dated 27.01.2013 allotted land to them and as per the land allotment map of the petitioners, the location of their land is found to be Plot No.1 that is situated in the same location of land that was already allotted to the BRTF in January 1988.

19. While conducting verification of the land documents produced by both the petitioners and the BRTF, the area of land situated as identified by both the parties was found in the same location Plot No. 1 and since the disputed land was found within the area allotted to BRTF in Plot No. 1, it was felt appropriate to conduct cross-verification and measure the said particular plot of land at Plot No.1 and to

find out the actual area of the said land and also excess land, if any, that is under occupation of the BRTF, as been alleged by the petitioners.

20. Schedule of the said disputed land is, (i) North – Department of PWD and Army land, (ii) South – Road to Army Headquarter, (iii) East – Road to Army Headquarter and (iv) West – Goye Hissan.

21. The measurement of land was done manually by using 50 Meters Tape.

22. Physical finding during verification of the land was found as - (i) land allotted to BRTF in Plot No. 1 is 25,875 Sq.mtrs, (ii) land was measured on 06.07.2020 and found - 26,949 Sq.mtrs and (iii) the difference is - 1,074 Sq.mtrs in excess. As the measurement of land been done by using 50 Meter Tape manually, error within 5% limit was considered and 5% of 26,949 Sq.mtrs is = 1,347.4 Sq.mtrs and whereas, the difference is 1,074 Sq.mtrs, which is within the permissible limit of error and therefore, no such excess land was found to be occupied by the BRTF in said Plot No. 1.

23. With regard to the Plot No. 2 that was allotted to BRTF could not be measured due to non-availability of survey equipment and expertise person in that regard.

24. Though the petitioners demanded to conduct the measurement of land at Plot No. 2, but their such demand of was found inappropriate since the location of their land allotment, as noted above, falls under Plot No. 1 only and the land allotment dispute area of the petitioners falls under Plot No. 1 only, whereas their disputed area does not fall under the Plot No. 2 of land that was allotted to the BRTF.

25. During such course of physical cross-verification, it was found on the ground that land is under actual occupation of the BRTF, which is well demarcated with

permanent security fencing all around the area with many buildings and other structures on it that were found to be very old and from the status of the said land, it was evident that it was under use of the BRTF who hold the said land for last many years and that the Government regularized their land allotment in the year 1988-89 on payment of land revenue; Whereas, the petitioners have obtained land allotment orders in the same location in the year 2013 only claiming that the BRTF is in occupation of excess land than the actual land allotted and given to them by the Government.

26. The petitioners could not take possession of their allotted land since the Government had already allotted the said land to the BRTF, which is in their active possession and in use, by constructing permanent boundary wall and many buildings over the said land allotted to them.

27. During such cross-verification in the disputed land on Plot No. 1, conducted on 06.07.2020 in presence of the petitioners, the BRTF representatives, personnel from Land Management, Aalo as well as the DLSRO, Aalo, it was found that the BRTF did not occupy any excess land at Plot No. 1, rather possessing the land as per their allotment made to them by the Government in the year 1988-89.

28. The respondent Nos. 3 & 4 in their affidavits on the basis of the cross-verification report dated 15.07.2020 submitted by the DLRSO, West Siang District, Aalo where the said verification was as been directed by the Court in the order dated 09.03.2020, noted above, submitted that the land allotted to the petitioners is a case of overlapping allotment of already allotted land of the BRTF and as such, the same has been recommended for cancellation

29. It is also seen from the said affidavit of the respondent Nos. 3 & 4 that said cross-verification was done in the Plot No.1 only to find out the actual area of land

in the said particular plot and excess land, if any, that is under occupation of the BRTF. Moreover, land allotment orders/papers produced by both, the petitioners as well as the BRTF found to be in the same location in Plot No. 1, within the area that was already allotted to the BRTF in the year 1988-89. It is also seen that though the petitioners are paying their land revenue to the Government since 2013, but they were never in occupation and possession of their allotted plots of land, neither before applying for allotment nor after getting the allotment and that they are paying their land revenue, only in anticipation of getting possession of the land, on one day or other.

30. The Deputy Commissioner, West Siang District, Aalo in its affidavit further stated that recommendation for cancellation of land allotment of the petitioner dated 17.08.2020 was done on the basis of the cross-verification report dated 15.07.2020 that was done in presence of the petitioners, the BRTF, authorities from the DLRSO, Aalo as well as the Land Management, Aalo and that the said Cross-Verification Report was submitted by the DLRSO, Aalo as it was found that the case of the petitioners is a case of overlapping allotment of land that was already allotted to the BRTF in the year 1988.

31. From the affidavit of the respondent No. 5, it is seen that the respondent BRTF deposited Rs. 7,18,193/- through the Defence Cheque E-178326 dated 11.10.1989 with the Deputy Commissioner, Along, Arunachal Pradesh against the acquired land of 1,43,638.62 sq.mtrs for the land allotted to them in Plot No. 01 & Plot No. 02 at Aalo on 29.01.1988 and its possession was handed over to them by the District Administration, Aalo on 20.09.1989.

32. It is seen from the cross-verification report of the DLRSO, Aalo dated 15.07.2020 that land allotments obtained by the petitioners from the Government

vide Land Allotment Approval dated 27.01.2013 and their Land Allotment Map, which the petitioners produced during the said cross-verification on 06.07.2020 and the land allotted to the respondent BRTF on 29.01.1988 and BRTF's Land Allotment Map indicated the location to be the same and that is Plot No. 1 and the said Plot No. 1 land was already allotted to the BRTF in January, 1988 itself, as noted above, where possession of said land at Plot No. 1 as well as at Plot No.2 were handed over by the DC, Aalo to the BRTF way back on 20.09.1989 itself.

33. From the said cross verification it can be seen that the respondent BRTF is in occupation and possession land at said Plot No. 1 as well as plot No.2 and are using the said land, as been allotted to them by the Government in January, 1988.

34. It is also seen that the petitioners could not place any other land allotment document along with its Map relating to their allotted land by the Government at Aalo that relates to Plot No. 2, which is in possession of the BRTF as per the allotment given to them by the Government in January, 1988 and possession since September, 1989.

35. Even in this writ petition, petitioners failed to show any land allotment order of the Government issued in their favour along with the map to establish that location of their land allotted is at Plot No. 2.

36. Since in the cross-verification, conducted on 06.07.2020, that was done on the prayers of the petitioners, they failed to show any such land allotment order along with the map allotted by the Government indicating some other land, other than Plot No. 1, therefore, their prayer in this petition regarding their claim over Plot No. 2 at Aalo which is already in occupation and possession of the respondent No. 5, BRTF as been allotted to them by the Government way back in January, 1988, is not sustainable in law.

37. During the deliberation of the matter, the petitioners placed the letter No. LM/WS-03/12-13 dated 14.12.2012 of the Deputy Commissioner, West Siang District, Aalo wherein on the basis of Chief Minister's U.O. No. CM(AP) 15/2012/516 dated 26.09.2012; Chief Minister's recommendation No. Nil, dated 27.09.2012 and Government's letter No. LM-102/2010 dated 24.05.2012 (Annexure-3 to the petition) that relates to proposal for allotment of land to the petitioners at Aalo for residential purpose, wherein the said Deputy Commissioner informed the Director of Land Management that proposed residential plot, was under excess occupation of the BRTF, which is open swampy land and surrounded by few temporary structures, wherein according to the petitioners land was allotted to them.

38. But in the affidavit the respondent Nos. 3 & 4 clearly stated that the said File No. LM/WS-03/12-13 containing the records of allotment process in respect of the petitioners was found missing from the office of the said Deputy Commissioner and in that regard missing Fir was lodged and during enquiry by police it could be found that the former dealing assistant did not hand over the said file to the person concerned, when he joined the said office and the said File No. LM/WS-03/12-13 is missing. (Annexures to the affidavit of the respondent Nos. 3 & 4)

39. The petitioners did not state that land at Aalo was allotted to them on the recommendation of the then Chief Minister of the State. Moreover, while making the statement in the letter dated 14.12.2012, that the said land was under excess occupation of the BRTF, the said Deputy Commissioner did not state about any such enquiry and/or spot verification after which the said land was found to be in excess under occupation of the BRTF.

40. Moreover, such disputes as been raised in this petition cannot be ascertained in a writ proceeding.

41. Accordingly, the prayers of the petitioners, made in this writ petition, being not sustainable in law, stands rejected.

JUDGE

Comparing Assistant