

GAHC040006652024



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

Case No. : WA/15/2024

Oni Moyong
D/o Alak Moyong, village Rasam, PO-Balek, P.S Pasighat, District East Siang,
Arunachal Pradesh

VERSUS

THE STATE OF AP and 3 Ors
represented by the Secretary, Land Management Deptt. Govt. of Arunachal Pradesh
2:The Director Cum Ex-Officio-Joint Secretary

Age: 0
Occupation :

3:The Deputy Commissioner

Age: 0
Occupation :

4:The Circle Officer cum Estate Officer

Age: 0
Occupation

Advocate for the Petitioner : Tabit Tapak

Advocate for the Respondent : GA (AP)

BEFORE
HONBLE MR. JUSTICE KALYAN RAI SURANA
HONBLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 30.05.2024

(K.R. Surana, J)

Heard Mr. T. Tapak, learned counsel for the appellant. Also heard Mr. D. Kamduk, learned standing counsel for the Land Management Department, representing respondent nos.1 and 2; and Ms. J. Ete, learned Govt. Advocate for respondent nos.3 and 4.

2. This intra-Court appeal is directed against the order dated 15.05.2024, passed by the learned Single Judge in WP(C) 181/2024, whereby the prayer for interim relief was rejected.

3. The case of the appellant is that he had been served with a show-cause notice dated 09.11.2021, under Section 4 of the Arunachal Pradesh Public Premises (Eviction of Unauthorized Occupants) Act, 2003, issued by the Circle Officer-cum-Estate Officer, East Siang District, Pasighat.

4. The appellant projects that he had submitted a representation dated 18.11.2021 before the Deputy Commissioner, East Siang District, Pasighat against the show-cause notice dated 09.11.2021 by projecting that a land allotment application dated 04.05.2021 submitted before the Deputy Commissioner, East Siang District, Pasighat for regularization of the land is pending for disposal. The appellant claims to have appeared before the Estate Officer on 25.11.2021 at 12.00 Hrs., but no hearing was conducted and no next date of hearing was fixed.

5. Another application-cum-appeal has been filed by the appellant before the Deputy Commissioner, East Siang District, Pasighat on 30.04.2024, which is

also pending for disposal. Referring to the said application, it is submitted that the appellant was threatened by the Estate Officer of erecting pillars of his building without any show-cause notice and accordingly, prayer was made to direct the Estate Officer not to demolish the structure or evict him from his RCC structure without disposal of his land allotment application.

6. On a pointed query of the Court, the learned counsel for the appellant has submitted that initially on receipt of the show-cause notice dated 09.11.2021, no show-cause reply was filed, but after passing of the impugned order dated 15.05.2024 by this Court in WP(C) 181/2024, a show-cause reply has been submitted, which is not annexed to this memo of appeal.

7. On a consideration of the materials available on record and upon hearing the learned counsel for all sides, the Court is of the view that under the Arunachal Pradesh Public Premises (Eviction of Unauthorized Occupants) Act, 2003, there is a provision for appeal under Section 12(1) thereof for every order passed by the Estate Officer under Sections 5, 7, 8 or 10 of the said Act. Therefore, there is no provision for an appeal to be entertained against a show-cause notice issued under Section 4 of the said Act. Hence, those two purported appeals filed on 18.11.2021 and 30.04.2024, filed by the appellant before the Deputy Commissioner, East Siang District, Pasighat is *prima facie* not maintainable.

8. Resultantly, the Deputy Commissioner, East Siang District, Pasighat will also have no jurisdiction to pass any interim order for staying the eviction process.

9. The observation made above is only a *prima facie* opinion of the Court and not a final verdict of the Court in the matter as the said issue is yet to be decided in the connected writ petition.

10. As a result of the *prima facie* opinion formed by the Court, the Court is inclined to hold that the rejection of the prayer for interim relief by the learned Single Judge vide impugned order dated 18.01.2024 calls for no interference in this intra-Court appeal. We endorse the view of the learned Single Judge that the impugned show-cause notice was issued way back in the year 2021.

11. We find no merit in this appeal and accordingly, this appeal is dismissed.

12. The Court is inclined to clarify that the observations made in this order shall not prejudice the appellant when her writ petition is heard on merit.

JUDGE

JUDGE

Comparing Assistant