

GAHC040009322020



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

Case No: WP(C)/292/2020

THE DIRECTOR GENERAL OF POLICE

Age: 56

Occupation :

Address:PHQ

ITANAGAR

GOVT. OF AP

REPRESENTED BY THE DY. SUPTD. OF POLICE (HQ)

ITANAGAR.

VERSUS

THE STATE OF AP

Age: 0

Occupation :

Address:REPRESENTED BY THE CHIEF SECRETARY

GOVT. OF AP.

2:THE SECRETARY

Age: 0

Occupation :

Address:LAND MANAGEMENT GOVT. OF AP

ITANAGAR.

3:THE DIRECTOR

Age: 0

Occupation :

Address:LAND MANAGEMENT

GOVT. OF AP

ITANAGAR.

4:THE ADDITIONAL DEPUTY COMMISSIONER-CUM-CHAIRMAN

Age: 0

Occupation :
Address:LAND VERIFICATION COMMITTEE CONSTITUTED BY THE
HON'BLE HIGH COURT IN ITS JUDGEMENT AND ORDER DATED 28.11.2018
IN WP(C) 592(AP)

5:KIPA NIKIA
Age: 0
Occupation :
Address:A RESIDENT OF UPPER JULLANG
PO/PS ITANAGAR
DISTRICT PAPUM PARE
A P.

Advocate for : Gegum Lollen
Advocate for : GA (AP) appearing for THE STATE OF AP: Advocate ,

,
,
, appearing for 2,
3,
4,
5, respectively.

With **Case No. : WP(C)/349/2020**

Kipa Nikia
RESIDENT OF UPPER JULLANG, PO/PS ITANAGAR, DIST.
PAPUM PARE, AP

VERSUS

The State of AP and Others
REPRESENTED BY THE SECRETARY, DEPARTMENT OF
HOME, GOVT. OF AP, ITANAGAR. 2:THE COMMANDANT
Age: 0
Occupation

Advocate for the Petitioner : Lissing Perme

Advocate for the Respondent : GA (AP)

**BEFORE
HONBLE MR. JUSTICE ARUN DEV CHOUDHURY**

ORDER

08.08.2024

1. Heard Mr. G. Lollen, learned counsel for the petitioner in WP(C)/292(AP)/2020 and Mr. P. K. Tiwari, learned Senior Counsel assisted by Mr. L. Perme, learned counsel for the petitioner in WP(C)/349(AP)/2020. Also heard Mr. I. Riram, learned Government Advocate for the State of Arunachal Pradesh representing the State respondents.
2. These two writ petitions are taken up together for final disposal as both are interconnected and between the same parties.
3. **WP(C)/292(AP)/2020** is filed by the Director General of Police, assailing an order dated 06.08.2019 passed by the Additional Deputy Commissioner, Itanagar Capital Complex, Itanagar. The said order was passed on the basis of a verification report submitted by a Committee constituted by this Court under its order dated 28.11.2018 passed in WP(C)/592(AP)/2018 consisting of (1) DRL&SO, Itanagar Capital Complex, Itanagar, (2) Director, Town Planning, (3) Director UD&HD under the Chairmanship of Additional Deputy Commissioner, Itanagar Capital Complex, Itanagar.
4. The grievance raised in WP(C)/592(AP)/2018 was that the petitioner is in peaceful possession over a plot of land at Upper Jullang Village near the Raj Bhawan at Itanagar, since 1978-79. However, the adjacent lands were re-allotted to the Police Department vide land re-allotment/transfer order dated 31.10.2013 issued by the Deputy Commissioner, Itanagar Capital Complex and after such reallocation, the Police department has not allowed the petitioner to develop his land nor was he allowed to make any construction. Accordingly, the petitioner

approached this Court. Police department disputed such claim of the petitioner and further claimed ownership over the subject land which the petitioner was possessing.

5. In the aforesaid backdrop, this Court under its order dated 28.11.2018 passed in WP(C)/592(AP)/2018 directed a fresh verification to be done by a committee constituted by the Court and to find out as to whether the land of the petitioner falls within the land that was allotted to the Urban Development Department previously and re-allotted to the Police Department later.
6. In view of the aforesaid direction, a committee was constituted by the government as follows:-
 - I. The Additional Deputy Commissioner, Itanagar Capital Complex, Itanagar as Chairman.
 - II. DLR&SO, Itanagar Capital Complex- Member.
 - III. Director, Urban Development and Housing Department or his representative not below the rank of Joint Director- Member.
 - IV. Representative of the Director General of Police not below the rank of Superintendent of Police.
 - V. Director Land Management Department or his representative not below the rank of Joint Director-Member.
7. In that context, the committee did a verification and submitted the report with the following conclusions: -

“11. Based on the above finding more particularly the finding and reason that

(i) Ground measurement of land of the Police Department mentioned above starting from check gate around all the points mentioned at Sl. No. 7 above is 7,96,000 sqmtrs (approximate).

(ii) So committee has found 7,96,000 sqmtrs (approximate) to be re-allotted to Police Department.

(iii) That the land of complainant Shri Kipa Nikia does not fall under allotted land of the Police Department.

(iv) After the completion of the process of this case, the Police Department may erect boundary pillars along with the mentioned boundary points”.

8. Thereafter, on the basis of the aforesaid report, a speaking order was passed by the Chairman cum Additional Deputy Commissioner, Itanagar Capital Complex, Itanagar, which is impugned in WP(C)/292(AP)/2020 by the Police Department.
9. **WP(C)/349(AP)/2020** has been filed by the respondent No. 5 in WP(C)/292(AP)/2020. The writ petition was filed assailing a notice dated 07.12.2020 issued by the Commandant, 4th IRBN, BHQ, Jully, Itanagar whereby, the petitioner was asked by the Police Department to stop and dismantle the illegal constructed structures allegedly constructed over police land.
10. The Director General of Police has challenged the verification report and the consequent order on different grounds including raising dispute as regards the actual revenue record relied on by the committee and the bias of the Chairman of the committee.
11. From the pleading of these writ petitions, it is seen that the Police Department, inspite of the report filed by the committee constituted by this Court, is disputing such report and claiming ownership over the plot of land. On the other hand, the respondent No. 5 in his writ petition is aggrieved by a notice of eviction and he also claims right over the subject land.
12. This Court, after perusal of the materials available on record, is of the view that as a report has already been submitted by a committee constituted by this Court wherein, it has been concluded that the land of the respondent No. 5 does not

fall under the allotted land of the Police Department, to uphold the challenge, this Court shall have to make an endeavour to resolve disputed questions of fact and to arrive at a conclusion that the report is perverse and the police department is the owner of the subject land. Such determination shall not be permissible, in exercise of its power of judicial review inasmuch as to negate such report, examination of witnesses and material evidence may also be necessary.

13. In the aforesaid backdrop, if the petitioner/Police Department is still aggrieved against the impugned report and the order, they shall be at liberty to seek a declaration as regards ownership of their land as well as seek eviction of the respondent No. 5 by approaching appropriate civil court.
14. In view of the aforesaid, the writ petition preferred by the police department, i.e. WP(C)/292(AP)/2020 stands dismissed. However, the Police Department, as observed hereinabove, shall be at liberty to approach the competent Civil Court seeking declaration of their right, title and interest and / or recovery of possession of the disputed land if so advised.
15. In the event such civil suit is filed, the Civil Court shall not be influenced by any observation made in this writ petition and/or made in order dated 06.08.2019 passed by the Additional Deputy Commissioner, Itanagar Capital Complex, and in the impugned report, the Civil Court shall deal with the subject in accordance with law on the basis of evidence and material that may be produced by the contesting parties.
16. As the report suggests that the petitioner is not occupying any Police land therefore, the impugned notice dated 07.12.2020 issued by the Commandant, 4th IRBN, BHQ, Jullu, Itanagar stands set aside and quashed. However, it is made clear that such decision shall not be treated as an assertion of the right, title and interest of the petitioner, namely Kipa Nikia over the subject property and same may be determined in the appropriate forum, if challenged by the police

department.

17. With the aforesaid observation, these two writ petitions stands closed.

JUDGE

Comparing Assistant