

GAHC040014582022

2024:GAU-AP:910



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

WP(C)/467(AP)/2022

1. **Shri Basongsingh Pao,**
S/o- Lt. Lahorsingh Pao,
Village/ P.O - Oyan,
P.S- Sille, Dist.- East Siang,
Arunachal Pradesh.
2. **Shri Takut Panyang,**
S/o- Lt. Tanong Payang,
R/o- Sille Camp, P.O - Oyan,
P.S- Sille, Dist.- East Siang,
Arunachal Pradesh.
3. **Shri Marshal Jerang,**
S/o- Taben Jerang,
R/o- Sille Camp, P.O - Oyan,
P.S- Sille, Dist.- East Siang,
Arunachal Pradesh.

...PETITIONERS

-VERSUS-

1. **The State of Arunachal Pradesh,** represented by the
Secretary (Land Management), Govt. of A.P., Itanagar.
2. **The State Police Department (APP)**
represented by the Director General of Police,
Police Headquarter, Itanagar, Chimpu.

- 3. The Deputy Commissioner,**
Dist.- East Siang,
Govt. of Arunachal Pradesh, Pasighat.
- 4. The Director** (Land Management),
Govt. of Arunachal Pradesh, Itanagar.
- 5. The Estate Officer-cum-SP,**
Dist.- East Siang,
Govt. of Arunachal Pradesh, Pasighat.

....RESPONDENTS

Advocate for the petitioners : Mr. T. T. Tara, Id. Adv.

Advocate for the respondents : Mr. D. Kamduk, Id. S.C., R-1 & 4,
Ms. G. Ete, Id. Addl. Govt. Adv., R-2 3 & 5.

:::BEFORE:::

HON'BLE MRS. JUSTICE MITALI THAKURIA

Date of hearing : 12.06.2024
Date of Judgment : 01.10.2024

JUDGMENT & ORDER (CAV)

Heard Mr. T. T. Tara, learned counsel for the petitioner. Also heard Mr. D. Kamduk, learned Standing Counsel, Land Management Department for the respondent Nos. 1 and 4 and Ms. G. Ete, learned Additional Senior Government Advocate for the respondent Nos. 2, 3 and 5.

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.

3. The brief facts of the case are as follows: In 2016, officials from the Land Management Branch of the district administration conducted a detailed survey of the Sille township area, preparing maps of the lands under the possession of various government departments. These maps were submitted to the Circle Officer, Sille-Oyan. Subsequently, the Circle Officer forwarded the information to the District Land Revenue and Settlement Officer, East Siang District, for further necessary actions.

3.1 The survey records reveal that the Government Higher Secondary School was in possession of 29,210.5 sq. m., the Primary Health Centre occupied 7,512 sq. m., the lands where government quarters of the General Administration Department were constructed measured 6,314.3 sq. m., and the land occupied by the Power Department was 1,360 sq. m. Additionally, various other departments occupied 1,150 sq. m.

3.2 To formalize land usage by these government departments, landowners of the Sille-Oyan township and members of the Oyan village authorities executed a Deed of Donation on 03.06.2016, voluntarily donating an area of 45,546.8 sq. m. in favor of the Government of Arunachal Pradesh, represented by the Circle Officer, Sille-Oyan. Upon receiving government approval, the Secretary (Land Management) issued a notification on 12.12 2016, declaring the donated land as government land for public purposes.

3.3 On 20.07.2018, the Deputy Commissioner of East Siang District forwarded a draft notification under Section 10 of the Balipara/Tirap/Sadiya Frontier Tract

Jhum Regulation, 1947, for the acquisition of land in the Silile-Oyan township area, including the petitioner's land, which had been declared a private plot in the December 2016 notification. Following this, the Director (Land Management) wrote to the Deputy Commissioner on 26.09.2018, requesting clarification as whether the land in question was voluntarily donated or it is involved compensation for land acquisition. The letter clearly indicated that the land had never been donated by the petitioner or other landowners of the Silile-Oyan township.

3.4 No fresh proposal was sent to the government for acquiring land within the Silile-Oyan township area following the return of the proposal. Subsequently, the Secretary (Land Management), Government of Arunachal Pradesh, issued a notification on 19.09.2019 (Memo No. LM-343/2016/903), illegally notifying 73.26 acres of land for the establishment of the Silile-Oyan Circle Headquarter/Township, claiming that the landowners of Silile-Oyan had donated it voluntarily. However, no records of such a donation were found with the District Administration.

3.5 Based on this notification, the Estate Officer-cum-Circle Officer of Silile-Oyan issued eviction notices to the petitioner on November 9, 10, 11, and 13 of 2020. However, in compliance with an interim order dated 11.11.2020, passed by this Court in WP(C) No. 297 (AP)/2020, these eviction notices were recalled on 16.11.2020.

3.6 Aggrieved by the notification dated 19.09.2019, the landowners, including petitioners Nos. 1 and 2, filed WP(C) No. 297 (AP)/2020, and the Court granted an interim order staying the operation of the notification until further orders.

Subsequently, the District Administration, Pasighat requested the petitioner's family to allow some portion of their land for the establishment of a police station. In response, the petitioner's family permitted the construction of the police station building on a portion of land adjacent to NH-52 without compensation or other conditions. However, they were unaware of a provisional land allotment order dated 18.03.2013 [ESR/LM/D-19/2009-10], for land measuring 10,691 sq. m. in favor of the State Police Department (APP) for establishing a police station at Sille.

3.7 In October 2021, the petitioner discovered the existence of this provisional land allotment order through an RTI application. Following government approval, the Deputy Commissioner, Pasighat issued a notice on 24.07.2013, directing the Head of the State Police Department to deposit Rs. 53,455/- (Rupees fifty-three thousand four hundred fifty-five) for the land value at Rs.5/- per sq. m. The petitioner subsequently filed another RTI application on 17.08.2022, seeking information about any preliminary notification for land acquisition for the Sille-Oyan, Police Station before 2013. In its response dated 06.09.2022, the Circle Officer, East Siang indicated that such information was not available.

3.8 Another RTI application was filed on 17.08.2022, inquiring about the land acquisition process prior to the allotment to the Police Department. The DLR&SO-cum-PIO of the Land Management Department replied on 14.09.2022, stating that the information was not available. The petitioner then submitted a representation on 21.09.2022, requesting the cancellation of the provisional land allotment order dated 18.03.2013.

3.9 The land in question still remain in the possession of the petitioners and has not been acquired by the state respondents. The respondent authority, specifically the Superintendent of Police (for short 'SP') of East Siang, Pasighat issued an eviction notice on 01.11.2022, to the petitioner's sister, who is also the mother-in-law of petitioner No. 3 and the wife of petitioner No. 2, asserting that the land is private and not government land. The notification dated 19.09.2019, is not final, and the land acquisition process is still ongoing, indicating that it remains the private property of the petitioners.

3.10 Neither petitioner No. 1 nor his father donated the land in question to the State Police Department, as evidenced by the RTI responses. Moreover, the provisional land allotment order falls under the preliminary notification dated 19.09.2019, which is already stayed by this Court. Despite this, the SP, Pasighat is attempting to evict the petitioners from their private land.

4. Thus, the petitioners have a strong *prima facie* case in their favor, and the balance of convenience strongly supports them. Therefore, they pray for the quashing and setting aside of the impugned provisional land allotment order No. ESR/LM/D-19/2009-10, dated 18.03.2013, concerning lands measuring 10,691 sq. m., issued by the Deputy Commissioner of East Siang District, Pasighat, in favor of the State Police Department (APP) for the establishment of a police station and other facilities at Sille-Oyan Circle.

5. Mr. Tara, learned counsel for the petitioners, has submitted that the impugned notifications dated 19.09.2019 and on 03.11.2020 are being challenged; however, the eviction notices related to these notifications were already stayed by the order passed in WP(C) No. 297 (AP)/2020 on 11.11.2020.

He further submitted that an allotment dated 10.05.2013, which has been annexed as Annexure-10 in the petition, indicates that the Police Department, Pasighat, was already allotted land, subject to the payment of land value at Rs. 5 per sq. m.

6. It is submitted that the Land Management Department correctly returned the original proposal sent by the Deputy Commissioner, East Siang for notifying private land as government land without clarifying whether the land was sought for acquisition according to the law or had been donated by the landowners. The respondent authority issued the allotment order for private land as government land without following the proper legal process. Therefore, it is imperative for this Court to intervene in the interest of justice. Thus, the impugned notifications issued by the respondents are irrational, perverse, and in violation of natural justice, infringing upon the fundamental rights of the petitioners under the Constitution of India, and thus should be quashed and set aside.

7. In this context, Ms. Ete, learned Additional Senior Government Advocate for the State respondents Nos. 2, 3, and 5, submitted in her affidavit-in-opposition that, according to the records, the Sille-Oyan Police Station was notified as Class-C on 22.03.1997. The foundation stone was laid on 25.04.2002, and the police outpost was inaugurated on 03.02.2011, starting operations on 01.08.2013. She further stated that although it is alleged that the district administration persistently approached and requested petitioner No. 1 to allow the establishment of a police station, there are no official documents to support the petitioners' claims.

8. Additionally, a Provisional Land Allotment Order dated 18.03.2013, for land measuring 10,691 sq. m. was passed, and a proposal for regular allotment was sent to the Director (Land Management), Government of Arunachal Pradesh, on 19.03.2013, by the District Land Revenue Settlement Officer, East Siang. Moreover, the land revenue has already been paid by the Police Department, as referenced in letter No. PHQ/ACCTs/CASH/MISC/2015/1437 dated 08.06.2015, addressed to the District Commissioner, East Siang, Pasighat from the Finance & Accounts Officer, PHQ, Itanagar.

9. Furthermore, it was stated that there is no deed of donation available with the government that was alleged to have been executed between the petitioner and the government. There was an order directing the Head Goan Burahs of Sille and Oyan villages to withdraw their illegally signed declarations, which claimed that the government-allotted land to the Police Department of Sille-Oyan Circle was private land in favor of petitioner No. 1. This order was issued on 24.05.2012, by the Circle Officer, Sille-Oyan Circle. Accordingly, an eviction order for the illegal occupation of Police Department land was issued by the Estate Officer-cum-Circle Officer, Sille-Oyan Circle on 24.11.2010. The Circle Officer, Sille-Oyan Circle also issued a memorandum for unauthorized occupation of government land on 20.12.2012, which the petitioner No. 1 is said to have filed with the office of respondent No. 2. It was further stated that no representation dated 21.09.2022, was received, which the petitioner No. 1 claimed to have submitted to the office of respondent No. 2.

10. The Circle Officer also stated that the land of Sille-Oyan town was voluntarily donated by the villagers in 1951, and this was affirmed in a meeting held in 1995. A map of Sille-Oyan Township was drawn on 03.02.1996. The land

for the establishment of the Police Station at Sille was donated by Shri Laharsingh Pao in 2002, and this was affirmed by his descendants on 03.08.2017 through an application to the Superintendent of Police, Pasighat. The deed of donation for the Sille-Oyan township, measuring approximately 45,546.8 sq. m., was donated free of cost by the villagers/landowners of Sille township, with the petitioner himself signing as one of the witnesses in the Deed of Donation on 03.06.2016. The provisional land possession certificate was issued based on the records available in the office, and no private land was included or occupied by private individuals at that time, except for:

- I. Plot No.1 occupied by Shri Bimal Ratan.
- II. Plot No.2 occupied by Shri Anggu Osik.
- III. Plot No.3 occupied by Shri Gogom Apang.
- IV. Plot No.4 occupied by Shri Tanyuk Tali.
- V. Plot No.5 occupied by Shri Rokom Tayeng.
- VI. Plot No.6 occupied by Shri Akma Perme.

The encroacher lists were:-

1. Shri Sasu Libang.
2. Shri Tago Ering.
3. Shri Vinoi Saroh.
4. Shri Dojeng Panggam.
5. Shri Magor Singh Pao.

11. Furthermore, the map of Sille-Oyan drawn on 03.02.1996, clearly shows that there is no private individual is in occupation at the back or nearby areas of the police station. The descendants of Late Laharsingh Pao have affirmed that the land for the establishment of the Sille Police Station was donated by their deceased father. Therefore, no illegality has occurred on the part of the respondents while addressing encroachment issues. The proper procedures were followed, and the land was deemed acquired as it was voluntarily donated by the people of Sille-Oyan villages for the establishment of the township.

12. Additionally, the notification dated 19.09.2019, was posted on the notice board in the local dialect on 20.10.2019, by the then Deputy Commissioner of Pasighat, who received it on 16.10.2019. Importantly, no complaint letters or claims of objection were received by the department regarding the notification of 73 acres of land for Sille-Oyan township. It is acknowledged that the land was already donated, and a deed of donation was executed in which the petitioner No.1 acted as a witness rather than as a landowner. Therefore, he has no *locus standi* and can be classified as an encroacher.

13. Ms. Ete, learned Additional Senior Government Advocate, submits that the petitioners are not landowners but encroachers, and their petition for ownership of the land should not be entertained by this Court. She further submits that there are no grounds for this Court to interfere with the notification issued by the relevant departments for the establishment of the Police Department in Sille-Oyan township. Accordingly, she prays for the dismissal of the instant writ petition.

14. Mr. Kamduk, learned Standing Counsel for the Land Management

Department has submitted that the petitioner's No.1 is not a landowner who only stood as a witness in the land donation deed and petitioner's No.1 father was the land owner. Thus, the petitioners cannot claim any benefits or compensation from the concerned department. Accordingly, he submits that the petitioners have no *locus standi* to appear in this case, and that the rights of the present petitioner have not been infringed. Thus, there is no reason for the Court to interfere with or to quash the impugned notification issued by the government department.

15. I have heard the submissions made by the learned counsels for both sides and have perused the case record along with the annexures attached to the petition.

16. It is the case of the petitioners that to formalize land usage by government departments, the landowners of Sille-Oyan township and members of the Oyan village authorities executed a Deed of Donation on 03.06.2016, voluntarily donating an area of 45,546.8 sq. m. in favor of the Government of Arunachal Pradesh, represented by the Circle Officer, Sille-Oyan. Following government approval, the Secretary (Land Management) issued a notification on 12.12.2016, declaring the donated land as government land for public purposes. On 20.07.2018, the Deputy Commissioner, Pasighat forwarded a draft notification under Section 10 of the Balipara/Tirap/Sadiya Frontier Tract Jhum Regulation, 1947, for the acquisition of land in the Sille-Oyan township area, including the petitioner's land, which had been declared private in the December 2016 notification. Subsequently, the Director of Land Management, Itanagar wrote to the Deputy Commissioner, Pasighat on 26.09.2018, requesting clarification as to

whether the land in question was voluntarily donated or involved compensation for land acquisition. No new proposal was sent to the government for acquiring land within the Silile-Oyan township area after the return of the previous proposal. Later, the Secretary (Land Management), Government of Arunachal Pradesh, issued a notification on 19.09.2019, illegally notifying 73.26 acres of land for the establishment of the Silile-Oyan Circle, Township, falsely claiming that the landowners of Silile-Oyan had donated it voluntarily. However, no records of such a donation were found with the District Administration. Accordingly, based on this notification, the Estate Officer-cum-Circle Officer of Silile-Oyan issued eviction notices to the petitioner on November 9, 10, 11, and 13 of 2020. However, in compliance with an interim order dated 11.11.2020, passed by this Court in WP(C) No. 297 (AP)/2020, these eviction notices were recalled on 16.11.2020.

17. Furthermore, the petitioners claim that they had no knowledge of the impugned provisional allotment notification dated 18.03.2013, for land measuring 10,691 sq.m. for the establishment of a police department. It was only in October 2021 that the petitioners learned through an RTI inquiry that the provisional allotment notification was subject to payment of land value to the owners. However, the provisional allotment order for 10,691 sq. m. in favor of the police department was issued without the knowledge of the petitioners and behind their backs. The petitioners assert that neither petitioner No. 1 nor his father donated the land in question to the police department. The provisional land allotment order was passed, and following that, a notification was issued on 19.09.2019, for the eviction of the petitioners from their private land. The respondent authority issued the order for the private land as

government land without following the proper legal process. The impugned notification for eviction is also irrational, perverse, and in violation of natural justice, infringing upon the fundamental rights of the petitioners guaranteed under the Constitution of India.

18. From the submission made by the learned Additional Senior Government Advocate, it is observed that according to the records, Sille-Oyan police station was notified as Class-C on 22.03.1997, and a provisional land allotment order was issued on 18.03.2013, for land measuring 10,691 sq. m. The land revenue has already been paid by the police department, and based on this proposal, the regular allotment was sent to the Director (LM) on 19.03.2013. Furthermore, from other annexures and information obtained through RTI, it is evident that there is no deed of donation in existence between the government and the petitioners, as claimed. Instead, there was an order directing the Head Goan Burahs of Sille and Oyan villages to withdraw their illegally signed declarations, which claimed that the government had allotted private land to the police department in favor of petitioner No. 1.

19. It is noted that based on this provisional allotment order, the Circle Officer issued a memorandum of unauthorized occupation of government land on 20.12.2012, to which the petitioner claims that he filed a representation before the officer of respondent No. 2. However, no representation dated 21.09.2022, was received by the department, as claimed by petitioner No. 1. Additionally, from the submissions and available annexures, it appears that the land was voluntarily donated by the villagers through a deed of donation. Specifically, the land for the establishment of the police station was donated by one Lahorsingh Pao in 2002, which was also affirmed by his descendants in a 2017 application

to the SP of Pasighat.

20. Moreover, from Annexure-2, the deed of donation dated 03.06.2016, shows that the present petitioner No. 1, Basongsingh Pao, was listed as a witness in the deed but did not sign as an owner or first party. In Annexure-3, the descendants of Lt. Lahorsingh Pao, the donor of the land, addressed a letter to the SP confirming the donation by their predecessor, executed on 03.08.2017. It is also noted that the deed of donation for Silte-Oyan township, measuring 45,546.8 sq. m., was donated free of cost by the villagers and landowners, with the petitioner himself signing as a witness in the deed executed on 03.06.2016.

21. Thus, based on the exhibits and submissions made by both the petitioners and the respondents, it is clear that the deed of donation was executed by the father of the present petitioner along with other villagers/landowners. Consequently, the provisional land allotment order was issued in favor of the police department on 18.03.2013, while other government departments were also allotted land for their establishments in the Silte-Oyan area.

22. Based on this allotment order, the police station has paid the land revenue as notified by the government. Therefore, it is concluded that the private land was acquired by the government/state respondents for the establishment of the police department, contradicting the petitioner's claims that their private land was illegally acquired without proper procedure. Rather, it is evident that the land was voluntarily donated by the villagers for the construction of various departments, which would benefit all the villagers. The descendants of Lt. Lahorsingh Pao, i.e., the father of petitioner No. 1, also confirmed the land donation in favor of the police department.

23. Further, petitioner No. 1 stood as a witness in the deed of agreement executed in 2016, he did not sign as an owner. Therefore, his claim as an owner to the deed of donation is not legally tenable, and he has no standing to file any such claim, as he does not possess the ownership rights over the land. Based on the annexures and submissions from both parties, it is clear that the relevant documents were duly considered by the concerned department when the villagers voluntarily donated the land for the construction of various departments, for the benefit of all villagers. Thus, there are no grounds for setting aside the impugned provisional land allotment order No. ESR/LM/D-19/2009-10 dated 18.03.2013, issued by the Deputy Commissioner, East Siang, in favor of the police department for the establishment of the police station and other facilities in Sille. Accordingly, this Court's interference is not at all required in the instant writ petition and the same stands dismissed.

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

JUDGE

Comparing Assistant