

GAHC010084282021



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

Case No. : WA/8/2023

UNION OF INDIA AND 2 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY
OF HOME AFFAIRS, NORTH BLOCK, NEW DELHI-110011

2: THE DIRECTOR (NORTH EAST-II)
MINISTRY OF HOME AFFAIRS
GOVT. OF INDIA
NORTH BLOCK
NEW DELHI-110011

3: THE COMMANDANT
40TH BATTALION
ASSAM RIFLES
LUNGLAWN
LUNGLEI
MIZORA

VERSUS

R. SAPCHAMA AND 37 ORS. -F
S/O HAWRAWPA, R/O LUNGLAWN, MIZORAM

2:SAITHANGPUIA
S/O KAPKIMA SAILO
R/O CHANMARI
LUINGLEI
MIZORAM

3:ZORAMCHHANTHANGA
S/O DARRINGAIA
R/O VENGLHUN
LUNGLEI
MIZORAM

4:R. LALTHANTLUANGI
D/O VANTHUAMA (L)
R/O CHANMARI
LUNGLEI

5:V. BIAKCHHUNGA
S/O PAHUAIA(L)
R/O LUNGLAWN
MIZORAM

6:K. LALHRIATPUII
D/O K. LALMACHHUANA
R/O SETHLUN
LUNGLEI

7:JENNY SAIDINGPUII
S/O SENBUANGA
R/O SETHLUN
LUNGLEI

8:R. CHHUANVAWRA
S/O SENBUANGA
R/O SETHLUN
LUNGLEI

9:K. ROCHUNGNUNGA
S/O K. CHHAWNTHUAMA
R/O SETHLUN
LUNGLEI

10:LALHMACHHUANA
S/O K. LALHMINGTHANGA
R/O SETHLUN
LUNGLEI

11:RONGHINGLIANA
S/O LAIZAWNA
R/O CHANMARI
LUNGLEI

12:LALROPUII
D/O F. SAPA
R/O CHANMARI
LUNGLEI

13:C LALMUANZOVA
S/O C. ROTHANGA
R/O LUNGLAWN

MIZORAM

14:C ROTHUAMA
S/O RUMLIANA
R/O LUNGLAWN
MIZORAM

15:K. MUANKIMA
S/O PHAIRIAMA
R/O LUNGLAWN
MIZORAM

16:T. LAWMAWMI
D/O ZAZAWNA
R/O LUNGLEI
MIZORAM

17:R. LALENGZAMI
D/O R. L TAWNGA
R/O RAMTHAR
LUNGLEI

18:C. THANGLURA
S/O LIANHRAMA
R/O CHANMARI
LUNGLEI

19:P.C LALROMAWIA
S/O P.C LIANSANGA
R/O LUNGLAWN
MIZORAM

20:K. LALMUANPUII
D/O K. LALCHHANDAMA
R/O FARM VENG
LUNGLEI

21:K. LALRINMAWIA
S/O KHUANGHNUNA
R/O VENGLAI
LUNGLEI

22:A. BIAKLAWMA
S/O AIA
R/O LUNGLAWN
MIZORAM

23:LALBIAKMAWIA KHIANGTE

S/O THANZAMA
R/O LUNGLAWN
MIZORAM

24:LALRINZOVA
S/O ZASANGA
R/O LUANGMUAL
MIZORAM

25:LALBIAKMAWIA KHIANGTE
S/O THANZAMA
R/O LUNGLAWN
MIZORAM

26:ROSANGLIANA
S/O R.L THLAMUANA
R/O LUNGLAWN
MIZORAM

27:LALREM RUATI
D/O SANGZUALA
R/O VENGLAI
LUNGLEI

28:CHAWNGTINTHANGA
S/O TAWNLIANA
R/O VENGLAI
LUNGLEI

29:CHALHNUNA
S/O SENA
R/O ELECTRIC VENG
LUNGLEI

30:K. LALLAWMZUALA
S/O K. LALHMACHHUANA
R/O SETHLUN
LUNGLEI

31:RINDIKI
D/O THANGKHUMA
R/O RAHSI VENG
LUNGLEI

32:LALLAWMSIAMA
S/O V. TUMSANGA
R/O LUANGMUAL
LUNGLEI

33:THUAMLIANI
D/O R. SAPKUNGA
R/O LUNGLAWN
MIZORAM

34:JK SAWIHMINGTHANGA
S/O K. ZAHLUTA
R/O RAMTHAR LUNGLEI

35:THE STATE OF MIZORAM
REPRESENTED BY THE SECRETARY
GOVT. OF MIZORAM
LAND REVENUE AND SETTLEMENT DEPARTMENT
AIZAWL MIZORAM

36:THE DEFENCE ESTATE OFFICER
GUWAHATI CIRCLE
P.O.-SILPUKHURI
GUWAHATI-781003

37:THE DEPUTY COMMISSIONER
LUNGLEI DISTRICT
LUNGLEI MIZORAM

For the appellants : Mr. R.K.D. Choudhury,
Deputy Solicitor General of India

For the respondents : None appeared.

– B E F O R E –

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI

HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

23-10-2024

(Vijay Bishnoi, C.J.)

1. This writ appeal is filed by the appellants Union of India and others being aggrieved with the judgment and order dated 21.08.2019 passed by the learned Single Judge in writ petition, being, WP(C) No.64/2017 of Aizawl Bench of Gauhati High Court.

2. The facts, sans the details, necessary for adjudication of the writ appeal are that the private respondent Nos.1 to 34 were the land owners whose lands were forcibly occupied by the Armed Forces in the year 1966. Admittedly, the said land owners were not provided any compensation for acquisition of their lands and therefore, they approached the High Court by way of filing writ petitions, being, WP(C) No.20/2014 and WP(C) No.30/2014 with the prayer to grant them compensation for forcible acquisition of their lands by the Armed Forces. Pursuant to the order dated 05.04.2016 passed by this Court in the said writ petitions and the connected interlocutory applications, the Deputy Commissioner, Lunglei District, Mizoram passed an award, being, Award No.1 of 2015 acquiring the land of the private respondents. Subsequently, Award No.1/2015 was superseded by Award No.1/2016 and pursuant to the same, compensation was given to the private respondents.

Since no rent was paid to the private respondents for occupying their lands till the acquisition of their land, the private respondents preferred WP(C) No.64/2017 with the prayer to issue a direction to the appellants to pay the rent for occupying their land illegally till their land was acquired through acquisition proceedings. The private respondents placed reliance on the decision of the Hon'ble Supreme Court rendered in the case of ***R.L. Jain (D) by LRS. vs. DDA and others***, reported in ***(2004) 4 SCC 79***.

The appellants herein contested the claim of the private respondents of paying rent while contending that no documents had been annexed by them to show that they were the real owners of the land prior to 1966 and therefore, they are not entitled to rent as claimed. The State Government has also taken the same stand as that of the appellants before the learned Single Judge.

However, during the course of arguments, the private respondents have limited their claim for paying rental compensation for illegal occupation of their land only from the date of issuance of Land Settlement Certificates issued by the Land Revenue & Settlement Department in their favour till the actual acquisition took place.

The learned Single Judge after hearing the counsel appearing for the parties and after relying on the decision of the Hon'ble Supreme rendered in *R.L. Jain (D) by LRS. (supra)* allowed the writ petition and directed the Deputy Commissioner, Lunglei to make computation of the rental compensation payable to the private respondents for the period from the date of issuance of Land Settlement Certificates in favour of the private respondents till the actual acquisition took place and to send the said computation assessed to the Secretary to the Government of Mizoram, Land Revenue & Settlement Department with further direction to it to forward the same to the appellant Union of India. It was further directed that the appellant Union of India shall make payment of rental compensation amount within a stipulated time.

3. Assailing the impugned order, Mr. R.K.D. Choudhury, learned Deputy Solicitor General of India for the appellants has submitted that as a matter of fact, the appellants have already paid compensation to the genuine land owners for the period from 1966 to 1986 by depositing the same with the Mizoram Government and in such circumstances, they are not supposed to pay further rental compensation as claimed by the private respondents.

4. Mr. Choudhury has invited our attention towards the affidavit-in-position filed on behalf of the appellants before the learned Single Judge and has pointed out that in paragraph 5 of the said affidavit-in-opposition, it is clearly

mentioned that the appellants have paid compensation by depositing the same with the Mizoram Government amounting to Rs.14.95 crores to the genuine land owners for the period from 1966 to 1986. It is further stated in the said affidavit that for the Lunglawn land in addition of the part of above amount the genuine land owners had been paid from time to time Rs.3,85,62,804/- and Rs.21,97,168/-, respectively as rental compensation for their land. It is argued that the learned Single Judge has not taken into consideration the said aspect of the matter and has illegally passed the impugned judgment and order.

5. Heard Mr. R.K.D. Choudhury, learned Deputy Solicitor General of India appearing for the appellants. Despite service of notice, neither the counsel for the private respondents nor the counsel for the other proforma respondents has put in appearance to oppose the writ appeal.

6. It is not disputed by the appellants that the land of the private respondents were forcibly occupied by the Armed Forces in the year 1966. However, the appellants are claiming that the private respondents have failed to substantiate their claim for rental compensation from the year 1966 because they have not produced any documentary proof that they are the real owners of the said land which has been occupied by the Armed Forces. However, Mr. R.K.D. Choudhury has failed to negate the fact that the Land Settlement Certificates were issued to the private respondents by the competent authorities from 1986 onwards and on the basis of the said Land Settlement Certificates, the award for acquisition of their land, i.e. Award No.1/2016 was passed by the Deputy Commissioner, Lunglei pursuant to which compensation was already paid to them.

7. We are of the view that once the compensation has been paid to the

private respondents in lieu of acquisition of their land on the basis of Land Settlement Certificates, the private respondents are certainly entitled for the rental compensation of their land from the date of issuance of Land Settlement Certificates in their favour till the actual acquisition took place. We are also of the view that before the Writ Court the counsel for the private respondents has rightly not pressed their claim for compensation right from the year 1966 and has rightly restricted their claim for rental compensation from the date of issuance of Land Settlement Certificates in their favour.

8. In *R.L. Jain (D) by LRS. (supra)*, the Hon'ble Supreme Court has categorically held that the land owner is entitled to get rent or damages for the use and occupation of the land for the period the government retained the possession of the property till the period the land was practically acquired through acquisition proceedings.

9. In view of the above discussion, we do not find any merit in this appeal. The same is therefore dismissed.

10. It is informed that due to pendency of this writ appeal, the Deputy Commissioner, Lunglei district has not proceeded to compute the rental compensation as directed by the learned Single Judge. Be that as it may, we direct the Deputy Commissioner, Lunglei district, Mizoram to complete the computation of the rental compensation payable to the private respondents for the period starting from the date of issuance of Land Settlement Certificates till the date of acquisition of their lands, i.e. 02.06.2016, the date when the Award No.1/2016 was passed. The said exercise shall be completed by the Deputy Commissioner, Lunglei district (respondent No.6 in the writ petition) within a period of three months from the date of receipt of certified copy of this order.

The respondent No.6 shall then send the computation so assessed to the Government of Mizoram, Land Revenue & Settlement Department, who shall forward the same to the appellants and the appellants shall deposit the said rental compensation amount within a period of four months thereafter. After deposition of the said rental compensation amount, the Government of Mizoram, Land Revenue & Settlement Department shall disburse the same to the private respondents/claimants within a period of one month thereafter.

11. The certified copy of this order be sent forthwith to the Secretary to the Government of Mizoram, Land Revenue & Settlement Department.

12. Pending Interlocutory Applications, if any, are also disposed of.

JUDGE

CHIEF JUSTICE

Comparing Assistant