

GAHC030000482022



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

Case No. : WP(C)/14/2022

Smt Lalzamliani
Nursery Bungkawn, Aizawl, Mizoram

VERSUS

Union of India and 7 Ors
Govt of India, Ministry of Defence, New Delhi

Advocate for the Petitioner : Ms. Lalawmpuii Fanai
Advocate for the Respondent : Ms Zairemsangpuii, CGC for R1 - R5

BEFORE
HONOURABLE MRS. JUSTICE MARLI VANKUNG

JUDGEMENT

Date : 08-02-2024

Heard Ms. Lalawmpuii Fanai, learned counsel for the petitioners along with Ms. Zairemsangpuii, learned CGC for respondent Nos. 1 to 5 and Mrs. H. Lalmalsawmi, learned Government Advocate for the State respondent Nos. 6 to 8.

2. This writ petition filed under Article 226 of the Constitution of India is for

the issuance of appropriate writ to the respondents for acquisition of the landed property of the petitioner covered by LSC No. 2507 of 1985 located at Zemabawk, Aizawl since the landed area is said to be occupied and acquired by the respondent Nos. 1 to 5.

3. The case of the petitioner is that she was initially the holder of VC Pass No. 60 of 1972, later converted into LSC No. AZL 2507 of 1985. The said landed area was then required to be acquired by respondent Nos. 1 to 5 and the District Collector had made a list of valid and invalid passes for making assessment for paying compensation to the land owners within the area acquired by the BRTF (respondent Nos. 1 to 5). In the list of invalid passes made on 1st November, 1989, the name of the petitioner appeared at Serial No. 3. However, LSC was wrongly reflected as LSC No. 2507 of 1988 instead of LSC No. 2507 of 1985. Because of this wrong reflection on the date of the LSC, the petitioner was not paid any compensation. When the petitioner learnt that the date of her LSC instead of 1985, was reflected as 1988, she submitted a representation on 05.09.1995 to the Director, Land Revenue & Settlement, Aizawl, Mizoram. Thereafter, on 5th September, 2016 since her previous representation was not considered, she again wrote to the Assistant Director, Survey to verify and demarcate boundaries of her land bearing LSC No. AZL

2507 of 1985 located at Zemabawk BRTF roadside, so that she will be able to erect pillars at the exact boundaries. Thereafter, on 05.10.2016 the Land Revenue & Settlement Department submitted a 'Duty Report' addressed to the Assistant Director of Survey that the land within LSC No. AZL 2507 of 1985 has been already acquired by BRTF. The petitioner again approached the Director, Land Revenue & Settlement Department stating that the BRTF had occupied the land but failed to pay their rental charge or compensation as per the LA Act. On 14th March, 2017, the Deputy Director, Land Revenue & Settlement Department wrote to the Deputy Commissioner in response to the compensation claimed by the petitioner stating that the location of LSC No. 2507 of 1985 in respect of Pi Lalzamlani (petitioner) has been verified by the Surveyor and found that the area falls within the acquired area of BRTF, Zemabawk. On 21st February, 2019, the Deputy Commissioner again wrote to the Director, Land Revenue & Settlement Department stating that it was verified on 5th October, 2016 that the LSC No. 2507 of 1985 falls within the area already acquired by BRTF and the Director, Land Revenue & Settlement Department was requested to clarify whether the LSC issued in favour of Pi Lalzamlani (petitioner) is LSC No. 2507 of 1985 or LSC No. 2507 of 1988. The letter also mentioned that para-wise-comments on the plaint in Civil Suit No. 5/2019 (*Smt. Lalzamlani Vs. State of*

Mizoram & Ors.) needs to be made. Thereafter, the petitioner had sought information through RTI and as per the reply received from the State Public Information dated 15th November, 2021 she got to know that the LSC No. 2507 of 1985 is the valid document. On receiving the RTI information, the Civil Suit No. 5/2019 was withdrawn and the petitioner has now approached this Court by way of a writ, for payment of compensation.

4. Ms. Lalawmpuii Fanai, learned counsel for the petitioner submits that from the documents and correspondences which have been submitted in the Court, it is clear that the landed area of the petitioner covered by LSC No. 2507 of 1985 is occupied by BRTF and that it was previously declared as invalid only because of some clerical mistake, wherein the LSC No. 2507 of 1985 was wrongly recorded as LSC No. 2507 of 1988. She therefore submits that since her land is occupied by BRTF, she may be given compensation as per law.

5. Ms. Zairemsangpuii, learned CGC, appearing for the respondents No.1 to 5, on the other hand, submits that the BRTF had occupied the land at Zemabawk in the year 1963, which is an area approximate 15.50 acres. Subsequently, the area occupied by the Headquarter, Chief Engineer, Project Pushpak/Respondent No.4 was converted into Pass No. 4 of 1970 by the Chief Executive Member,

Mizo District Council. The validity of the pass was extended up to 31st December, 1989 vide Revenue Department letter No. LRR/B-37/8385/2016 dated 11th September 1985. Thereafter, in order to establish its headquarters complex on permanent basis, the BRTF approached the Government of Mizoram for acquisition of the land.

6. The learned CGC submits that the respondent Nos. 1 to 5 have already paid compensation for the landed area acquired and occupied by them as per the report submitted by the Deputy Commissioner, Aizawl for the valid land passes. That there is no unpaid portion of land in the land occupied and acquired by them at Zemabawk. She therefore submits that if the landed area of the instant petitioner covered by LSC No.AZL 2507 of 1985, even if it was mistakenly recorded as 2507 of 1988, then payment was already made by BRTF for the whole area occupied by them. She therefore submits that if the petitioner claims that payment has not been made for her landed area occupied by BRTF, then it is an issue to be settled between the petitioner and the State respondents. She also submits that the petitioner has now voiced her grievances and approached this court after a period of 33 years, since the land was acquired vide Award No. 9 of 1989 and payment was already made as per the Award.

7. The learned CGC also submits that if there is a claim that the landed area covered by LSC No. AZL 2507 of 1985 is occupied by BRTF, then, this matter needs to be referred back to the Civil Court for recording evidence. The learned CGC submits that the 'Duty Report' dated 05.10.2016 is not acceptable since it was made in their absence. The learned CGC further submits that since the respondents have already made full payment for the whole landed area occupied by them, the respondents can prove the same by adducing their evidence before the trial court, since that the matter involves a disputed question of facts.

8. Mrs. H. Lalmalsawmi, learned Government Advocate, on the other hand submits that in terms of this Court's Order dated 14.08.2023, where this court was of the view *that the Revenue Department should produce the original records pertaining to LSC No. 2507/1985 and 2507/1988, if any, on the next date*, she has produced the original documents showing that the LSC of the petitioner is LSC No. 2507 of 1985 and not 2507 of 1988. She further submits that there is no record of any landed property within the LSC No. 2507 of 1988. She also submits that the 'Duty report' dated 5.9.2016, which is also annexed by the petitioner in their petition, is the only verification report stating that the LSC No. 2507 of 1985 is occupied by the BRTF. She submits that besides this 'Duty Report', she has no any updated information.

9. The learned Government Advocate further submits that as per information given by the Deputy Commissioner, since the LSC No. 2507 of 1985 was recorded as LSC No. 2507 of 1988 which was then declared invalid, no compensation was given for the said landed area.

10. I have heard and considered the submissions of the learned counsels for both the parties. What has emerged for the submissions of the parties and from the documents produced by the learned Government advocate for the state respondents is that, the LSC No. 2507 of 1985 was mistakenly recorded as LSC No. 2507 of 1988. The learned CGC has denied that they are occupying the landed area covered under LSC No. 2507 of 1988, since the LSC was then declared as invalid in 01.11.1989 and has not accepted the 'Duty Report' dated 05.09.2016 which was made in their absence. The BRTF/ respondents Nos. 1 - 5 have also claimed that they have paid the compensation for the whole area occupied by them and there is no portion of land occupied by them which is left unpaid, however, the claim of the petitioner is that she has not been paid any compensation for her land under LSC No. 2507 of 1985, which is occupied by BRTF. These are questions of facts which cannot be decided in this writ petition but need to be proved by the parties by adducing their evidences before the civil court.

11. In view of the above findings, this Court finds it appropriate if this instant writ petition is disposed of with an observation that the instant writ petition involves questions of facts which need to be proved. Thus, the petitioner is given the liberty to approach the Civil Court/appropriate forum for redressal of her grievances.

12. Accordingly, W.P.(C) No. 1 4 of 2022 stands disposed of as above.

JUDGE

Comparing Assistant