

GAHC030000652024



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

Case : WA/6/2024

The Union of India and Anr.
R/by the Secretary to the Govt. of India
Ministry of Defence South Block
New Delhi-110011

2: The Defence Estate Officer
Guwahati Circle
Narangi
Military Station
Guwahati-26
VERSUS

The State of Mizoram and 18 Ors.
r/b the Chief Secretary to the Govt. of Mizoram
New Capital Complex
Khatla
Aizawl
Mizoram

2: The Secretary to the Govt. of Mizoram
Land Revenue and Settlement Department
New Capital Complex
Khatla
Aizawl
Mizoram

3: The Director
Land Revenue and Settlement Department
Aizawl

4: The Deputy Commissioner
Mamit District
Mamit

Mizoram

5:Sh Zuithanga (now dead)
S/o Vara (L)
West Phaileng
Mamit District
Mizoram
r/b his son Rosanga

6:Sh Chaukunga (now dead)
S/o Lianggura
West Phaileng
Mamit District
Mizoram
r/b his wife Tlangkhumi

7:Smt Rochhungi
w/o Lalthanzuala Sailo
West Phaileng
Mamit District
Mizoram

8:Sh Darrikhuma
S/o Ruala
West Phaileng
Mamit District
Mizoram

9:Sh Tlangkhuma (now dead)
S/o Rualkhuma
West Phaileng
Mamit District
Mizoram
r/b his son Ropianga

10:Sh Lalnghenga (now dead)
S/o Sangkhuma
West Phaileng
Mamit District
Mizoram
r/b his daughter Hmangaihzuali

11:Sh C.Vanlalsiama (now dead)
S/o Ch.Lianggura (L)
West Phaileng
Mamit District
Mizoram
r/b his wife Darrikhumi

12:Smt Hranglawmi (now dead)
D/o Pachhunga (L)
West Phaileng
Mamit District
Mizoram
r/b his son Lalsiahnuna Sailo

13:Sh Thiamsanga
S/o Sialaichhunga
West Phaileng
Mamit District
Mizoram

14:Sh Kapthangpuia (now dead)
S/o Thangthuami
West Phaileng
Mamit District
Mizoram
r/b his son Lalzawngliana

15:Sh Laldingliana (now dead)
S/o Kapzauva
West Phaileng
Mamit District
Mizoram
r/b his son J.Lalrongenga

16:Sh C.Thankhuma
S/o Lianggura
West Phaileng
Mamit District
Mizoram

17:The Secretary to the Govt. of India
Ministry of Home Affairs
North Block
New Delhi

18:The Director
Govt. of India
Ministry of Home Affairs
North Block
New Delhi

19:The Joint Secretary
Govt. of India
Ministry of Home Affairs (N.E.Division)

North Block
New Delhi

Advocate for the Petitioner : Mr. Sanjay Kumar Medhi
Advocate for the Respondent : Ms. Mary Lalruatkimi Khiangte for R1-R4

Case No. : I.A.(Civil)/34/2024

Union of India r/b the Secretary to the Govt. of India, Ministry of Defence and
Anr.
Ministry of Defence, South Block, New Delhi-110011

VERSUS

State of Mizoram r/b the Chief Secretary to the Govt. of Mizoram and 18 Ors.
New Capital Complex, Khatla, Aizawl, Mizoram

Advocate for the Petitioner : Mr. Sanjay Kumar Medhi

Advocate for the Respondent : Addl. AG/GA, Mizoram for R1 - R4

B E F O R E

HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA
HON'BLE MRS. JUSTICE MARLI VANKUNG
O R D E R

15.05.2024

(Marli Vankung, J)

Heard Mr. S.K. Medhi, learned counsel for the appellants. Also heard Mrs. H. Lalmalsawmi, learned Govt. Advocate appearing for the State respondent Nos. 1 to 4 and Ms. Zairemsangpuii, learned CGC appearing for the Union of India.

2. The instant writ appeal arises out of the Judgment & Order dated 15.11.2023 passed by the learned Single Judge in W.P.(C) No. 17 of 2023.

3. The background of the case in a nutshell, which lead to the instant Writ

Appeal is that the Writ petition No.17/2023 was filed by the petitioner for non payment of rental charges of the land belonging to the petitioners occupied by the security forces. After due verification, it was confirmed that the land claimed for rental charges, were actually in existence and the land passes were found to have been issued by the State Government.

4. The matter went to the Hon'ble Supreme Court and the Hon'ble Supreme Court after having regard to the fact that the matter has already undergone a verification by the Deputy Commissioner, Mamit District, Mamit, who had made the assessment, the land owners could not be deprived of rental compensation as was assessed. As such, a direction was made to pay rental compensation within a time frame and also with a default clause.

5. The learned Single Judge after hearing both the parties held that "*Upon due consideration of the case projected by the parties, this court is of the view that the petitioners are entitled to the relief claimed by them. Accordingly, the writ petition is disposed of with a direction to the respondent concerned, particularly the respondent Nos. 1 to 5 to ensure depositing of the assessed amount before the Deputy Commission, Mamit District, Mamit within a period of two (2) months from the date of receipt of a certified copy of this Order, failing which, the respondents will be liable to pay interest @ 6% per annum from the date of this Order till final realization*".

6. Mr. S.K. Medhi, learned counsel for the petitioner submits that the learned Single Judge had erred in directing the respondent Nos. 4 – 5 who are the Secretary to the Govt. of India, Ministry of Defence and the Defence Estate Officer, Guwahati Circle to deposit the assessed amount before the Deputy Commissioner, Mamit District, when the prayer in W.P.(C) No.17/2023 was to direct the respondent Nos. 1 to 3 (Ministry of Home Affairs) to pay the rental

compensation as assessed by respondent No.9 (Deputy Commissioner). The learned counsel submits that the land concerned pertains to the Ministry of Home Affairs and hence the liability for payment of rental compensation is upon the Ministry of Home Affairs and not from the Ministry of Defence *i.e.* the instant appellants.

7. For the above reasons, the learned counsel for the appellant has prayed that the Judgment & Order dated 15.11.2023 passed in W.P.(C) No. 17/2023 be modified, since the appellants are not liable to make the payment of rental compensation.

8. Ms. Zairemsangpuii, learned CGC, in all fairness submits that it appears that it is the Ministry of Home Affairs *i.e.* respondent Nos. 1 to 3 in the W.P.(C) No. 17/2023, who are liable to make the payment of rental compensation.

9. Mrs. H. Lalmalsawmi, learned Govt. Advocate for the State respondents submits that the order of the learned Single Judge directing that respondent Nos. 1 to 5 are to pay the rental compensation appeared to be a clerical mistake and should have been respondent Nos. 1 to 3 who are liable to pay the rental compensation.

10. We have heard the submissions made by the learned counsels for both the parties and considered the limited prayer made by the learned counsel for the appellants, which is that the appellants who are arrayed as respondent Nos. 4 & 5 in the Writ petition(C) No. 17/2023, should not be made liable to pay the rental compensation to which no objection is raised by the learned counsels of the present respondents. We find it appropriate to interfere with the Judgment & Order dated 15.11.2023 passed by the learned Single Judge in W.P.(C) No. 17 of 2023 only to the extent of modifying the same. Accordingly, instead of the

respondents Nos. 1 to 5, the respondents No. 4 & 5 being excluded, only the respondent Nos. 1 to 3 are to ensure depositing of the assessed amount before the Deputy Commissioner, Mamit District, Mamit in terms of the Judgment & Order dated 15.11.2023.

11. We do not find any other grounds to interfere with the Judgment & Order dated 15.11.2023 passed by the learned Single Judge in W.P.(C) No. 17 of 2023.

12. Accordingly, W.A. No. 6 of 2024 stands allowed and disposed of.

JUDGE

JUDGE

Comparing Assistant