

GAHC030000992024



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

Case No. : WP(C)/4/2024

Sh. Lalhmingthanga
S/o Thana (L)
R/o Khamrang, Kolasib District

VERSUS

The State of Mizoram and 5 Ors.
R/b the Chief Secretary, Govt. of Mizoram, Aizawl

2:The Secretary to the Govt. of Mizoram
Land Revenue and Settlement Dept.
Aizawl

3:The Director
Land Revenue and Settlement Dept.
Govt. of Mizoram
Aizawl

4:The Settlement Officer
Land Revenue and Settlement Dept.
Govt. of Mizoram
Aizawl

5:The District Magistrate / Addl. District Magistrate
Aizawl District
Aizawl

6:Sh. Vanlalhriata
R/o Sairang Dawr Veng
Aizawl Distric

Advocate for the Petitioner : Ms Dinari T Azyu

Advocate for the Respondent : Addl. AG/GA, Mizoram for R1 - 5

B E F O R E
HON'BLE MRS. JUSTICE MARLI VANKUNG
O R D E R

19.02.2024

Heard Mr. Victor, learned counsel for the petitioner along with Mrs. H. Lalmalsawmi, learned Govt. Advocate for the State respondent Nos. 1-5.

This petition has been filed under Article 226 of the Constitution of India against the impugned Judgment & Order dated 21.09.2022 in Complaint Case No. R.21011/8/20-DC(A)/77 and the impugned Notification dated 12.02.2024 whereby the respondent No.5 directed the petitioner to dismantle his RCC construction within a week.

The learned counsel for the petitioner submits that aggrieved by the impugned Judgment & Order dated 21.09.2022 in Complaint Case No. R.21011/8/20-DC(A)/77 they had approached Appellate authority, which is the Director, Land Revenue & Settlement Department in the month of June, 2023 however, the matter is still pending before the Appellate Authority. Meanwhile, before the disposal of the appeal pending with the Appellate Authority, they have received the impugned Order dated 12.02.2024 for dismantling his RCC construction within a week.

The learned counsel submits that though they have informed the Appellate Authority of the impugned Order dated 12.02.2024, they have not receive any response and therefore, they had approached this court for the violation of principles of natural justice.

The learned counsel has now prayed that till the learned Appellate Authority considers

and disposes the petition filed by the petitioner for setting aside/stay of the impugned Notification dated 12.02.2024, this court may pass an order for the stay of the execution of the impugned order since the dismantle of RCC construction at this stage would cause irreparable loss to the petitioner.

Mrs. H. Lalmalsawmi, learned Govt. Advocate submits that they do not have any strong objection to the prayer made, which is for an interim order till the appropriate Appellate Authority considers and disposes of the application made by the petitioner for the stay of the impugned order/notification dated 12.02.2024 with regards to the dismantling of RCC construction of the petitioner.

I have heard the submissions made by the learned counsels for both the parties. It is seen that the learned counsel for the petitioner has made a limited prayer that this court may stay the execution of the order/notification dated 12.02.2024, wherein the RCC of the petitioner is to be dismantled within 1 (one) week. It is seen that a petition of the same nature has also been filed and is pending before the Appellate Authority which is not considered till date. Thus, this court finds that the interest of justice would be met if the impugned Order dated 12.02.2024, which is a direction made by the respondent No.5 to the petitioner to dismantle his RCC construction at Sairang Vengsang be stayed till the same is heard and disposed of by the Appellate authority.

W.P.(C) No. 4/2024 accordingly disposed of with the above direction.

JUDGE

Comparing Assistant