

GAHC030001122023



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

Case No. : CRP/6/2023

Darkunga and 3 Ors.
S/o Ruma
Zohmun
Mizoram

2: Darliansanga
S/o Liankunga (L)
Mauchar
Mizoram

3: Kaithuama
S/o Amrenga
Mauchar
Mizoram

4: Chhuahthanga
S/o Thanliana
Palsang
Mizoram
VERSUS

State of Mizoram and 4 Ors.
r/b Chief Secretary

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

3:The Deputy Commissioner-cum-Collector
Aizawl Dist.
Aizawl

4:North Easter Electric Power Corporation and Managing Director
Shillong
Meghalaya - 793003

5:Secretary to the Govt. of Mizoram
Environment and Forest Department

Advocate for the Petitioner : Mr Lalfakawma
Advocate for the Respondent : Ms. Mary Lalruatkimi Kiangte for R1
R2
R3 & R5

CRP/3/2023

Lalthanmanga and 6 Ors.
Sakawrdai, Mizoram 2: Thanglianchnunga

3: Ngurtawni

4: Lungtiawia

5: Kawlremthanga

6: H.K.Dawla

7: Thanglur

VERSUS

State of Mizoram and 4 Ors.
r/b Chief Secretary 2:Secretary to the Govt. of Mizoram

3:The Deputy Commissioner-cum-Collector

4:North Easter Electric Power Corporation and Managing Director

5:Secretary to the Govt. of Mizora

Advocate for the Petitioner : Mr Lalfakawma

Advocate for the Respondent : Ms. Mary Lalruatkimi Kiangte for R1, R2, R3 & R5

Linked Case : I.A.(Civil)/90/2023

North Eastern Electric Power Corporation Limited
Govt. of India Enterprise and 4 Ors.
Head Office at Brookland Compound
Lower New Colony
Shillong
r/b its Chairman and Managing Director

VERSUS

Sh Darkunga and 7 Ors.
S/o Ruma
Zohmun
Mizoram

Advocate for the Petitioner : Mr. V.K.Jindal
Sr.Adv.
Advocate for the Respondent : Mr Lalfakawma for R1-R4

Linked Case : I.A.(Civil)/89/2023

North Eastern Electric Power Corporation Limited
Govt. of India Enterprise and 4 Ors.
Head Office at Brookland Compound
Lower New Colony
Shillong
r/b its Chairman and Managing Director

VERSUS

Sh Malsawma and 7 Ors.
S/o Phunga
Mauchar
Mizoram

Advocate for the Petitioner : Mr. V.K.Jindal
Sr.Adv.
Advocate for the Respondent : Mr Lalfakawma

Linked Case : I.A.(Civil)/88/2023

North Eastern Electric Power Corporation Limited
Govt. of India Enterprise
Head Office at Brookland Compound
Lower New Colony
Shillong r/b its Chairman and Managing Director

VERSUS

Sh Vanlalliana and 7 Ors.
S/o Dothanga
Saipum
Mizoram

Advocate for the Petitioner : Mr. V.K.Jindal
Sr.Adv.
Advocate for the Respondent : Mr Lalfakawma

Linked Case : CRP/4/2023

Vanlalliana and 3 Ors.
Saipum
Mizoram

2: Lalniropuia
S/o Dothanga
Saipum
Mizoram

3: Lallungmuana
S/o Rokhawma
Saipum
Mizoram

4: Lalzirliana
S/o Liana
Saipum
Mizoram
VERSUS

State of Mizoram and 4 Ors.
r/b Chief Secretary

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

3:The Deputy Commissioner-cum-Collector
Aizawl District
Mizoram

4:North Easter Electric Power Corporation and Managing Director
Shillong
. Meghalaya-793003

5:Secretary to the Govt. of Mizoram
Environment and Forest Department

Advocate for the Petitioner : Mr Lalfakawma

Advocate for the Respondent : Ms. Mary Lalruatkimi Khiangte for R1 to R3 and R5

Linked Case : CRP/5/2023

Malsawma and 3 Ors.
S/o Phunga
Mauchar
Mizoram

2: Lalvuana
S/o Velzathanga
Mauchar
Mizoram

3: Lalthanngura
S/o K.Nawta (L)
Mauchar
Mizoram

4: K.Thanglura
S/o K.Z.Nawt (L)
Mauchar
Mizoram
VERSUS

State of Mizoram and 4 Ors.
r/b Chief Secretary

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

3:The Deputy Commissioner-cum-Collector
Aizawl District
Mizoram

4:North Easter Electir Power Corporation and Managing Director
Shillong
Meghalaya - 793003

5:Secretary to the Govt. of Mizoram
Environment and Forest Dept.

Advocate for the Petitioner : Mr Lalfakawma
Advocate for the Respondent : Ms. Mary Lalruatkimi Khiangte for R1
R2
R3 & R5

Linked Case : I.A.(Civil)/87/2023

North Eastern Electric Power Corporation Limited
Govt. of India and 4 Ors.
Head Office at Brookland Compound
Lower Mew Colony
Shillong r/b its Chairman and Managing Director

VERSUS

Sh Lalthamanga and 10 Ors.
S/o Zaipuia
Sakawrdai
Mizoram

Advocate for the Petitioner : Mr. V.K.Jindal
Sr.Adv.
Advocate for the Respondent : Mr Lalfakawma for R1-R7

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA
ORDER

Date : 20-03-2024

Heard the learned counsels for the parties.

2. This revision petition is directed against the Order dated 03.02.2023 in Execution Case No. 7/2023 passed by the Court of Additional District Judge, Aizawl Judicial District, Aizawl.

3. The brief facts necessary for this matter is that the petitioners claimed to be land owners of land which was required for construction of Tuirial Hydro Electric Project by the NEEPCO. These lands were acquired and the Award under Section 11 of the Land Acquisition Act, 1894 was made by the Collector i.e., Award No. 5/2003. By the said award, the Collector awarded compensation to the claimants therein. The award was made in the year, 2003. However, the amount payable to the land owners and the petitioners were not released. In terms of a notification issued by the Government of Mizoram vide Notification dated 28.01.1965 issued under Section 14 r/w Section 21 of the Mizo District (Forest) Act, 1955, the Competent authority issued an order dated 05.08.2016, declaring the land which were under occupation of the petitioners to be part of the reserved forest. It came to be challenged before the writ court by filing WP(C) No. 45/2017 and WP(C) No. 51/2017. This writ petitions came to be disposed of by the Judgment & Order dated 27.01.2021 by a Coordinate Bench of this Court and the following order was passed:-

“(A) The impugned Order dated 05.08.2016 issued by the Chief Secretary to the Government of Mizoram and the impugned Notification dated 28.01.1965 made under Section 14 read with Section 21 of the Mizo District (Forest) Act, 1955 are hereby set aside and quashed as prayed for in WP(C) No. 45/2017 and WP(C) No. 51/2017; and

(B) The petitioners of all the above Writ Petitions shall seek alternative remedy for execution of the Awards in accordance with the procedure prescribed in the Land Acquisition Act, 1894.”

4. In terms of this order, the petitioners were given liberty to approach the

Competent Authority for execution of the award in the procedure prescribed under the Land Acquisition Act, 1894.

5. Against this judgment and order, an appeal came to be preferred by a third party being Writ Appeal No. 274/2022. Initially, there was an interim order passed by the Division Bench. This writ appeal, however, came to be withdrawn by the appellant by Order dated 23.02.2023, which came to be dismissed subsequently by the writ appeal on 16.10.2023. Since the writ appeal was dismissed on withdrawal and the interim order vacated, in terms of the order passed by a Coordinate Bench, the petitioners approached the Competent Court of civil jurisdiction filing an application for execution of the Award No. 5/2003. The Competent Court of civil jurisdiction namely, the Court of Additional District Judge, Aizawl Judicial District, Aizawl in Execution Case No. 7/2023 by the impugned Order dated 03.02.2023 dismissed the execution petition, on the ground that the order passed by the High Court dated 27.01.2021 in WP(C) No. 135/2013, cannot be executed as the same is beyond the jurisdiction of the Court. Being aggrieved, the present revision petition is filed.

6. Heard the learned counsels representing the respective parties.

7. Mr. Lalfakawma, learned counsel appearing for the petitioner submits that the execution petition was filed in terms of the liberty granted by the Writ Court i.e., Judgment & Order dated 27.01.2021 passed in WP(C) No. 135/2013. A proper application for execution was filed under Order 21 Rule 11 CPC and it was numbered as Execution Case No. 7/2023. The learned counsel for the petitioner submits that this came to be dismissed by the impugned order, without affording any opportunity of hearing to the petitioner to apprise the Court on the issues. The learned counsel submits that had an opportunity being granted to the counsel to address the Court, then all facts and materials necessary could have been placed before the Court to satisfy the Court for drawing out execution proceedings for implementation of the Award No. 5/2003.

8. This matter was listed earlier on 14.03.2024, on which date the relevant Execution Court records were called for. The records called for have been received by the Registry and are placed before the Court.

9. On hearing the learned counsels for the parties and upon careful perusal of the pleadings of record as well as perusal of the relevant records called from the Court of the Additional District Judge, Aizawl Judicial District, Aizawl, it is seen that the impugned order was passed on 03.02.2023 and the order as well as the records do not reflect that the learned counsel for the petitioners was heard or any opportunity of hearing was granted. The finding in the impugned order that the Trial Court did not have jurisdiction to implement the Order dated 27.01.2021 passed in WP(C) No. 135/2013 appears to be misplaced as the Execution Case No. 7/2023 was instituted for execution of Award No. 5/2003.

10. Under such circumstances, this Court is of the considered view that the matter needs to be remanded back to the Competent Court for re-deciding the issue after hearing the learned counsels for the parties. In this limited direction, the revision petition is allowed. The impugned Order dated 03.02.2023 is set aside. The matter is remanded back to the Court of Additional District Judge, Aizawl Judicial District, Aizawl and the Court will pass the appropriate order/s afresh after hearing the counsels representing the relevant parties.

11. Civil Revision Petition is accordingly allowed and the relevant records are to be transmitted back to the Competent Court.

JUDGE

Comparing Assistant