

GAHC030004322022



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

Case No. : WA/18/2022

State of Mizoram and Anr.
r/b Secretary to the Govt. of Mizoram, Health and Family Welfare Department,
Aizawl, Mizoram 2: Chief Medical and Health Officer
Health and Family Welfare Dept.
Aizawl
Mizora

VERSUS

Evelyn Beingiazi and 2 Ors.
Meisavaiah, Siaha, Mizoram 2: Mara Autonomous District Council
R/b Executive Secretary
Siaha
Mizoram

3: Senior Revenue Officer
Mara Autonomous District Council
Siaha
Mizora

Advocate for the Petitioner : Mrs. Linda L Fambawl

Advocate for the Respondent : Mr. Victor L Ralte for R-1

Linked Case : WA/20/2022

State of Mizoram and Anr.
r/b Secretary to the Govt. of Mizoram
Health and Family Welfare Dept.
Aizawl
Mizoram

2: Chief Medical and Health Officer

Health and Family Welfare Dept.
Aizawl
Mizoram
VERSUS

Sh Khaiko and 10 Ors.
S/o Zabei (L)
R/o Siaha Vaihpi
Siaha

2:Sh Machhua
S/o K.Lehhya
R/o Mawhro
Siaha District

3:Sh K.Laisa
S/o Kiapo (L)
R/o College Vaih
Siaha

4:Sh H.Beiradua
S/o H.Sidei
R/o New Siaha

5:Sh N.Zitlua
S/o N.Varo (L). R/o New Siaha

6:Sh C.Lalhranga
S/o Zalua
R/o New Siaha

7:Sh H.C.Valy
S/o H.C.Khahmo
R/o New Siaha

8:Sh H.C.Zirtei
Secretary
ECM
KNP Branch
Bethany
Siaha

9:Sh K.T.Vabeiryudaosa
S/o K.T.Vabeikhokhei
R/o ECM
Vaih
Siaha

10:Mara Autonomous District Council
r/b the Executive Secretary
Siaha
Mizoram

11:The Senior Revenue Officer
Mara Autonomous District Council
Siaha
Mizoram

Advocate for the Petitioner : Mrs. Linda L Fambawl
Addl.A.G./G.A.
Mizoram
Advocate for the Respondent : Mr. Victor L Ralte for R1-R9

Linked Case : I.A.(Civil)/148/2022

State of Mizoram and Anr.
r/b The Secretary to the Govt. of Mizoram
Health and Family Welfare Dept.
Aizawl
Mizoram

2: The Chief Medical and Health Officer
Health and Family Welfare Dept.
Aizawl
Mizoram
VERSUS

Evelyn Beingiazi and 2 Ors.
Meisavaih
Siaha
Mizoram

2:Mara Autonomous District Council
R/b the Executive Secretary
Siaha
Mizoram

3:The Senior Revenue Officer
Mara Autonomous District Council
Siaha
Mizoram

Advocate for the Petitioner : Mrs. Linda L Fambawl
Advocate for the Respondent : Mr. Johny L Tochwawng for R2 & R3

**BEFORE
HONOURABLE MRS. JUSTICE MARLI VANKUNG
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI
JUDGMENT & ORDER**

Date : 09.04.2024
(Marli Vankung, J)

The instant WA No. 18 of 2022 is an appeal against the Judgment and order of the learned Single Judge in WP (C) No. 43 of 2019 dated 28.10.2021 and the W.A No.20 of 2022 is an appeal against the judgment order of the learned Single Judge in WP (C) No. 18 of 2022 dated 02.06.2022. It was seen that both the Writ appeals pertains to the same subject matter, but in relation to different plot of land, for the above reason both the Writ Appeals were listed and heard together.

Heard Mrs. Linda L. Fambawl, learned Additional Advocate General for the State respondents in both the writ appeals along with Mr. Victor L. Ralte, learned counsel for the private respondents in both the writ appeals and Ms. Ramengmawii, learned counsel for MADDC, in both the writ appeals.

[2.] The brief facts of the case is that the present Appellant i.e., Health & Family Welfare Department, was allotted a plot of land under the Land Donation Certificate by the Mara Autonomous District Council (MADC)/ Respondent Nos. 2 & 3 dated 17.09.1997 with an area of 26.40 x 21.85 meters and Land Donation Certificate No. 54/L&R/2003-04/186 of 27.01.2005 with an area of 6.6 hectares. On 21.03.2014 the Respondent Nos. 2 & 3 issued a Notification through the Senior Revenue Officer, vide No MADDC 56/L&R/Admn/2013 under section 17 and section 22 of the Mara

Autonomous District Council (Non-Agricultural Land Settlement) Act, 2011, stating that since the system of allotting land by lease shall be introduced w.e.f 1st April, 2014, all Government Departments, Companies, Firms or Associations of persons in possession of Land by means of Land Donation Certificate were informed to apply for Land Lease Certificate and to surrender their respective Land Donation Certificates on or before 31.03.2014 and those who already surrendered their Land Donation Certificates shall be deemed to have already applied for Land Lease Certificates on the condition that the Executive Committee may acquire for public purpose any plot or any portion of land covered by the boundary of such Land Donation Certificate which is not used for the purpose for which it was allotted. Therefore, in pursuance to the said notification the Appellant herein submitted its Land Donation Certificate to the Land Revenue Settlement Department, MADC. Thereafter another notification dated 16.07.2014 was issued by the Senior Revenue officer, Land Revenue Settlement Department, MADC, notifying that all Land Donation Certificates issued by the MADC was revoked w.e.f 01.04.2014 and that the original area of land may not be given while allotting land on lease but as deemed appropriate by Executive Committee, MADC. All heads of the department were requested to cooperate with the officials of the Land Revenue & Settlement department. In terms with the said notifications the Appellant/ Health department were issued Certificate of Land Lease, bearing No. LL.02(G Deptt) 43 of 08.02.2014 whose landed area in sqm. was 10139 , which was smaller than the area allotted to them under the Land Donation Certificate. The

instant respondent No. 1 was then issued a plot of land in the sliced out portion of land vide land pass dated 08.12.2016, which was converted into a permanent pass under LSC No.PLSC/R/NS/47/018 dated 26.04.2018 in terms of section 16 of the Mara Autonomous District Council (Non- Agriculture Land Settlement) Act,2011 (Act of 2011). When the Appellant Department came to know that certain portion of its land had been sliced out while converting the Land Donation Certificate into Land Lease Certificate, the Appellant Department submitted their objections and representations to the MADC vide letters dated 20th March, 2017, dated 18.05.2018 and letter dated 05. 06. 2018, requesting the Chief Executive Member, MADC to take necessary action for restoration of its land into its original form. Thereafter, the MADC in pursuance to the resolution of the 47th Executive Committee held on 26.06.2018, issued a Show Cause Notice dated 27.09.2018 to the 11 private persons, to whom Land Lease were issued within the land of Health & Family Welfare Department and cancelled the LSC's issued to 11 private persons within the area of Health & Family Welfare Department by issuing cancellation order dated 17.01.2019.

Aggrieved, the Writ Petitioner/i.e., Respondent No. 1 herein, filed the Writ petition WP (C) No. 43 of 2019 before the learned Single Judge.

[3.] The contention of the Writ Petitioner in Writ Petition (C) No. 43 of 2019/Respondent No.1 was that the Land Donation Certificate of the respondent Health Department was declared void on the issuance of land lease certificate vide notifications dated 21.03.2014 (Annexure 2) and notification dated 16.07.2014

(Annexure-3). During the demarcation/measurement of the Land Lease Certificate of the Health & Family Welfare Department, the representatives of the Appellant (i.e., Health & Family Welfare Department) were also present and no objection was raised then. The Health department was then issued the Land Lease certificate (annexure 4) wherein certain portions of the landed area previously allotted was sliced out. That the Petitioner had applied for allotment of a plot of land within the landed area that was sliced and accordingly, the Revenue Authority in pursuance of her application had allotted her a plot of land vide H/227/NS/L&R/015 of 08.12.2016 which was subsequently converted to a Non-Agricultural Permanent Land Settlement Certificate No PLSC/R/NS/47/018 of 26.09.2018 measuring an area of 240 sq.m/2582.4.sq.ft (annexure 5) located a New Siaha area after following the due process of law. Therefore, the claim and objection of the Health & Family Welfare Department on the basis of Land Donation Certificate which was already revoked cannot be accepted. That the cancellation of her LSC vide order dated 17.01.2019 is highly arbitrary, illegal and unconstitutional in as much as her LSC could only be acquired in such circumstances, as per law, as provided at para 5 of the terms and conditions of the LSC, which states that the land may be partly or wholly acquired by the District Council or officer authorised by it for public purposes in accordance with the law applicable in the District Council area. She therefore prayed for the restoration of her LSC or for a direction to the MADC to acquire the said land if the same is required for public purpose as per law.

[4.] The Respondent Nos. 1 & 2 i.e., MADC's contention in WP (C) No. 43 of 2019, was that the Petitioner/Respondent No. 1, Smt. Evelyn Beingiazi is the daughter of the then Senior Revenue Officer Shri. Beimos Azyu, who having vested interest, had issued the House Pass No. H/227/NS/L&R015 of 08.12.16, which was later converted to Permanent LSC/R.NS/47/2018 of 26.04.2018 to his daughter, petitioner/Smt. Evelyn Beingiazi. In this regard the Executive Committee, MADC had convened a joint meeting with the pass holders within the land of the medical department and all the pass holders except Mr. Beimos Azyu, had willingly agreed to withdraw their Land passes as the area is well within the Health Department area and the purpose being purely for the general public. The MADC had also promise to issue fresh land passes in some other vacant land. That the concerned Authority in order to fulfil its promise has also issued certain House Passes to five (5) private land Pass Holders. That the cancellation of the Passes was done in good faith after serving notice to them, for public purpose and welfare of the general public.

[5.] They further contended that the exclusion of a certain portion of land allotted to the Health department in the Land lease Certificate was done with a malicious intent by the then Senior Revenue Officer, who is the father of the petitioner, by taking undue advantage of his official position, and issued pass to himself in the name of his daughter/Smt. Evelyn Beingiazi. It was also contended that Shri. CL. Hranga, the Medical Department Staff present at the time of measurement of Medical Land did not act as per the instruction of his superior officers and the said Shri. CL. Hranga, who

was the representative of the Department, is one of the Pass Holders. That the petitioner Smt. Evelyn Beingiazi was allotted the plot of land by the concerned authority at that time and Beimos Azyu was the Senior Revenue Officer and was one of the signatories to the pass body, shows that the allotment was done in an irregular and unusual manner, taking advantage of their official position and status.

[6.] The contention of the Appellants Health & Family Welfare Department who are respondent Nos. 3 & 4 in the writ petition, was that the Appellants were never informed about the slicing out some portion of their land which was previously covered by the Land Donation Certificate, to private individuals. That as soon as it came to their knowledge, they submitted their complaints to the concerned Authority MADC. The Health & Family Welfare Department's further contention was that the Petitioner has no locus standi as the land in question was sliced out without their consent and without any plausible reasons. Accordingly, The MADC took the necessary steps for restoring the sliced out portion of the land to the original owner by issuing the notification dated 07.01.2019. It was prayed that the petition deserves to be dismissed.

[7.] The Ld. Single Judge vide impugned Judgment & Order dt. 28.10.2021 allowed the Writ Petition and held that though the Health Department possessed their land under the land Donation Certificate dated 17.09.1997 and 27.01.2005, however the authorities decided to do away with the Land Donation Certificate and introduce the issuance of Land Lease Certificate vide notifications dated 21.03,2014 and 16.07.2014,

wherein it was also provided that the area of the fresh land lease issued will be as determined by the Executive Committee of the MADC, accordingly, certain portion of the land was sliced out. The learned Single Judge was of the opinion that it was not even the case of the respondents that the land pass was illegally or conveniently secured by the petitioner. That although an attempt has been made to show that the signatory in the pass is the father of the petitioner, the fact remains that decision to issue House pass rests with the Executive Committee of the MADC and the Land pass indicates the approval of the Executive member of the MADC and that there is no specific allegations of mala fide or connivance activity indulged in by the officer concerned. The learned Single Judge then directed the MADC to restore the land to the petitioner/instant Respondent No. 1 and further held that if the land is required for public purpose, the same will have to be acquired as per law.

[8.] On the disposal of WP(C) No 43 of 2019 on 28.10.2021, the respondent Nos. 1 to 9 in W.A No. 20 of 2022, then filed the writ petitioner in WP(C) No. 18 of 2022. The petitioners in WP(C) No. 18 of 2022 are the other private individuals who were issued Land Lease within the land of Health & Family welfare Department, which was also cancelled, vide the common cancellation order dated 17.01.2019, which stated that the Executive Committee cancel/revoke the Land Passes which have been issued within the coverage of the land Donation area of the Siaha District Medical Department by bifurcating and minimizing coverage of the land donation area.

[9.] The submission made by Mr. Victor L. Ralte, the learned counsel for the

petitioners was that, the case of the petitioners was squarely covered by the Judgment and Order dated 28.10.2021 in WP(C) No. 43 of 2019, wherein the respondent authorities were directed to restore the land of the petitioners and therefore a similar direction maybe passed.

[10.] The learned Single Judge then held that the writ petition, WP(C) No. 18 of 2022, was covered by the earlier Judgement and order dated 28.10.2021 in WP(C) No. 43 of 2019 and accordingly disposed of the writ petition WP(C) No. 18 of 2022, with a direction to restore the land of the petitioners as was allotted to each of them by setting aside the impugned order dated 17.01.2019, in so far as the writ petitioners are concerned and held that if the land is required for public purpose, the same will have to be acquired as per the relevant land acquisition of law in force .

[11.] Thus being aggrieved and dissatisfied with the impugned Judgment & Order dated 28.10.2021 passed in WP(C) No. 43/2019, and WP(C) No. 18 of 2022, the Appellants preferred the instant writ appeals in WA No. 18 of 2022 and W.A No. 20 of 2022 which have been clubbed together.

[12.] We find it appropriate to first discuss the submissions made by the rival parties in WA No. 18 of 2022.

Mrs. H. Lalmalsawmi, learned Government Advocate for the State appellant submitted that the Ld Single Judge failed to acknowledge the fact that the terms and conditions of the Land Donation Certificate itself clearly prohibit the transferring of any portion of the donated plot of land to any other individuals except for public purpose or if the

land was not used for the purpose it was donated. The learned Government advocate also submitted that the same condition was given in the annexed Notification dated 21.03.2014 which was issued in exercise of its power under Section 22 r/w Section 17 of the Mara Autonomous District Council (Non-agricultural Land Settlement) Act, 2011, which stated that all the Land Donation Certificates in respect of various plots of land stands revoked and to apply for fresh Land lease certificates and that Executive Committee may acquire for public purpose, any plot or any portion of land covered by the boundary of such Land Donation Certificate which is not used for the purpose for which it was allotted.

[13.] The learned Government Advocate for the appellant further submitted that there is no provision which allows the MADC to slice out or decrease a land on the pretext of converting any land holdings into Land lease certificates or Land settlement certificate to private individuals. That the Mara Autonomous District Council (Non-agricultural Land Settlement) Act, 2011 was enacted to provide for the better control and restriction of the allotment, occupation or use of land for residential and other non-agricultural purposes which came into effect on 20.03.2013. That under Section 22 of the MADC Act, 2011 the allotment authority may recall and convert any land holding certificate issued under any law for the time being in force by the District Council into Land Settlement Certificate or Land Lease Certificate. Further Section 17 provided for the issuing of Land Lease Certificate instead of LSC for company, firms, Government Department etc. Thus from a bare perusal of Section 22

and Section 17 of the Act it is crystal clear that the decreasing of the area of any land holdings while converting it into LSC or Land Lease is without any force of law under the said Act.

[14.] The learned Government Counsel submitted that the subsequent letter dated 16.07.2014 which was received from Mr. Beimos Azyu, Senior Revenue Officer, MADDC, who happens to be the father of the respondent No. 1, was an intimation that an area as deemed appropriate by the MADDC shall be allotted on lease to each one of the departments concerned and not the whole area of land covered by the void Land Donation Certificate. That in the letter dated 16.07.2014 no provision of law was cited which authorised the slicing out/decrease of the landed property of the appellants, but had referred to the Notification dated 21.03.2014. The learned counsel pointed out that the letter dated 16.07.2014 was issued by Mr. Beimos Azyu, Senior Revenue Officer, MADDC with vested interest and not in conformity with the first notification dated 21.03.2014 issued under section 17 and section 22 of the Mara Autonomous District Council (Non-Agricultural Land Settlement) Act, 2011, That in the present case, the land of the Appellant Department was deceitfully sliced off and given to the Respondent No. 1 who is a private individual and not for public purpose, without informing or without obtaining the consent of the appellants. Moreover the land of the Appellant Department was fully developed with standing buildings and the Appellant Department was making full effort towards strengthening the health system so as to provide and improve public health.

[15.] The learned counsel also submits that on 19.11.2014 vide letter No. MADC. 56/L&R/LAND/2013, when the appellant Department was informed that with regards to the Land Donation Certificate No. 54/L&R/2003-04/186 of 27.01.2005, having an area of 6.6 hectares, the Department was ready to issue the Land, Lease Certificate at 4 (four) places and requested to submit Rs. 1,82,815/- on account of Land Recording Fee, the Appellant Department did not have any knowledge about the slicing out of certain portion of its land since the intimation letter does not mention anything about it. The officials of the Revenue Department, MADC did not inform about the slicing out of certain portion of the land while converting it into Land Lease Certificate, it was only on 20.03.2017, when the Appellant Department got to know about the slicing out of certain portion of its land to the 11 Private Persons. Thereafter, the Appellant Department immediately submitted complaints to the Chief Executive Member, MADC seeking restoration of its land into its original form. Thereafter, the MADC while accepting their mistake in issuing land passes within the land already issued to the Health Department to private individuals, had rightly remedied their wrongs by cancelling the Land Settlement Certificate of the Respondent No. 1 vide order dated 17.01.2019.

[16.] The learned Government counsel also submitted that a show cause notice was issued to the 11 private individuals stating that the 47th Executive Committee held on 26.06.2018, resolved that the 11(eleven) persons to whom the land passes were issued, should be requested to surrender their passes immediately. However since the

same was not surrender the respondent No. 1 along with the other 10 nos. private land holders, were asked to reply within 15 days why their land passes which were required for public, should not be cancelled. The learned Government Advocate submitted that Mr. Beimos Azyu in reply to the show notice had, in his letter dated 11.10.2018, stated that at the time of measurement of the land for issuance of Land lease certificate to the Health Department, one Medical Officer and one staff of the Medical Department were also present and no fault or error was committed by the Revenue Department MADC. That the Land Lease certificate was accepted by the Department and they have protested belatedly after a lapse of one year from the issuance of the Land Lease Certificate. That Mr. Beimos Azyu had stated that if the Land Pass issued in the name of his daughter/respondent No. 1 was required for public purpose, the said land could be acquired if the authority paid not less than Rs.20 lakhs. The learned counsel submits that this reply dated 11.10.2018 clearly shows that the land pass was illegally issued to the private respondent No. 1 by the then Sr. Revenue Officer for his personal gain and that he had taken undue advantage of his official position as a Senior Revenue Officer.

[17.] The learned government counsel also submitted that the MADC had in the alternative earmarked fresh lands to be allotted to the Land Settlement Certificate holders which was initially accepted by all the land holders except the Senior Revenue Officer. The learned Government advocate further submits that the person who is said to represent the Appellant/Health and Family Welfare Department was also issued a

land pass within the sliced landed area, this clearly proved that they had misused their official position for personal gains.

[18.] The learned Government counsel also submitted that Section 15 & 16 of the Act of 2011 provides for allotment of temporary land pass only in a vacant land. That the land which was sliced out from the original land donation certificate includes five (5) already constructed and occupied staff quarters and construction of various other important buildings such as Nursing hostel, Administrative building, other staff quarters etc. are earmarked and planned and for which the existing land itself is hardly sufficient.

[19.] The learned Government advocate submitted that the Ld. Single Bench and had concentrated only on the interest of the private persons who illegally possessed LSCs on account of the Senior Revue Officer misusing his official power for his private gain. She further submits that it is a well settled proposition of law that larger public interest is precedent to vested interest of private persons and that the revenue department MADC could reduce the area of the land allotted to the appellant department under the Land Donation Certificate only if it was for the public or if the land was not used for the purpose it was allotted. Thus, the Judgment & Order dated 28.10.2021 is not sustainable in law and is liable to be set aside and quashed.

[20.] Mr. Victor L. Ralte, learned counsel for the private respondent No. 1 on the other hand submitted that there were no grounds for setting aside the Judgment & Order dated 28.10.2021, wherein the learned single judge had rightly held that the

land is required for public purpose, the same will have to be acquired as per law. The learned counsel for the private respondent submits that the Appellant/Health & Family Welfare Department cannot claim ownership of the area previously allotted to them in their Land Donation Certificate which they had surrendered and that the MADC has the authority to make allotments as found appropriate by the Executive Committee, MADC. Accordingly, the fresh land lease was issued to the Appellant department which was less in area than their surrendered Land Donation Certificate. Thereafter the private respondents had applied for the issuance of land lease certificates in respect of the resultant vacant lands and were then issued the Land Settlement Certificates by the revenue department after completing all formalities as per section 15 & 16 of the Mara Autonomous District Council (Non-agricultural Land Settlement) Act, 2011. The learned counsel for the private respondents submits that since the particular plot of land was vacant at the time of issuance of the Land Lease Certificates to the private respondents, there was no illegality in the issuance of the Land Lease certificates to the private respondents and if the landed areas was required for public purpose then the appellant department should acquire it as per law, in terms of para 5 of the 'Terms and Conditions' of the LSC issued to the private respondents. That the action of the MADC in cancelling the LSCs of the private respondents vide its order dated 17.01.2019 was highly arbitrary and illegal and thus there were no grounds to interfere with the Judgment & Order dated 28.10.2021, wherein the learned single judge had rightly held that if the land is required for public purpose, the

same will have to be acquired as per law.

[21.] Ms. Ramengmawii, learned counsel for MADC, submits that though the MADC has not filed any appeal against the Judgement and Order of the learned single Judge dated 28.10.2021, however they still stand by the stand taken by them in the writ petition WP(C) No. 43 of 2019. The learned counsel submits that the MADC had issued the notification dated 17.01.2019 cancelling the Land Settlement Certificate issued to private individuals since it was for the public interest and use.

[22.] We have given our anxious consideration to the rival submissions made by the counsel for both the parties and we have also perused the impugned Judgment & order of the learned Single Judge dated 28.10.2021 and the annexed documents on record.

[23.] From the contentions of the parties before the learned single judge and from the submissions of the learned counsels, we find that the issue that needs to be looked into is whether the respondent No.1 was issued the LSC on account of the Senior Revenue Officer being the father of Respondent no.1, had misused his official position for his private gain and whether the Revenue Department, MADC had rightly cancelled the Land Settlement Certificate of the respondent No.1 vide the order dated 17.01.2019 and had erred in reducing the landed area of the land allotted to the appellant department under the Land Donation Certificate without informing the Appellant/Health and Family Welfare Department and thereafter by issuing the sliced out portion to private individuals and not for public purpose.

[24.] On perusal of the documents on record, we find that the Appellant/Government of Mizoram, Health and Family Welfare Department was allotted a plot of land under the Land Donation Certificate by the Mara Autonomous District Council (MADC)/Respondent Nos. 2 & 3 dated 17.09.1997 with an area of 26.40 x 21.85 meters and Land Donation Certificate No. 54/L&R/2003-04/186 of 27.01.2005 with an area of 6.6 hectares. It was provided in the Land Donation Certificate that the area of the land so donated may be reduced if and when found necessary by the Executive Committee in public interest. Thereafter the Revenue Department of MADC issued the notification dated 21.03.2014, in exercise of the power conferred by section 17 and section 22 of the Mara Autonomous District Council (Non-Agricultural Land Settlement) Act, 2011, which revoked all Land Donation Certificates in respect of various plots of land within MADC as the system of allotting land by lease shall be introduced w.e.f 1st April 2014. Consequently the departments were informed to apply for Land Lease Certificates on or before 31.03.2014 on the condition that the Executive Committee may acquire for public purpose, any plot or any portion of land covered by the boundary of such Land Donation Certificate which is not used for the purpose for which it was allotted. The Revenue department then issued the second notification dated 16.07.2014 wherein by referring to the notification dated 21.03.2014, it stated that 'an area of land as big as the Executive Committee of the Mara District Council may deem appropriate shall be allotted on lease to each one of the departments concerned and not the whole area of the land

covered by the void land donation certificate of such department'. Thereafter, the appellant/Health and Family Welfare Department, was issued a Land Lease Certificate dated 08.12.2014 wherein the landed area was reduced from the landed area allotted via the Land Donation certificate and portions of the allotted land was sliced off, not for public purpose, but was allotted to 11 nos. private individuals.

We are of the considered view that the second notification dated 16.07.2014 had referred to the notification dated 21.03.2014, wherein it provided the condition that the Executive Committee may acquire for public purpose and both the notifications are to be read harmoniously and not independently.

[25.] From the evidence on record we find that notifications dated 21.03.2014 and the notification dated 16.07.2014, were issued by the Senior Revenue Officer, Mr. Beimosa Azyu who is the father of the respondent No. 1, Smt. Evelyn Beingiazi. In the Land lease Certificate dated 08.12.2014 issued to the appellant department, the Senior Revenue Officer, Mr. Beimosa Azyu was one of the signatories and when the PLSC /R/NS/47 /018 of 26/4/18 was issued to Smt. Evelyn Beingiazi/respondent No.1, the Senior Revenue Officer, Mr. Beimosa Azyu was again a signatory. We have also noted that in the reply to the show cause notice issued to the 11 nos. private individuals to whom the Land Settlement Certificates were issued, Mr. Beimosa Azyu had objected to the cancellation of land pass issued in his daughters name by stating that if the land was required for public purpose, the land will have to be acquired on payment of not less than Rs. 20,00,000/- (Rupees twenty lakhs) only.

He had also mentioned that the Health and Family Welfare Department was represented by Shri. C.L Hranga when the measurement of the land for issuance of Land Lease was done, however it is seen that the person who is said to represent the department was also issued a land settlement certificate within the sliced of portion.

[26.] We find that mala fides can be inferred from undisputed facts and we are therefore of the considered opinion that though the learned Single Judge had observed that *it was not even the case of the respondents that the land pass was illegally or conveniently secured by the petitioners*, however, we cannot ignore the facts on record and any action which suggests mala fide cannot be sustained in law.

[27.] Thus, considering the facts and findings in its entirety, we find that the Executive Committee of Mara Autonomous District Council, on realising that the sliced out portion was not used for public purpose but was wrongly issued to private individuals, had rightly revoked the LSC issued to the private respondent No. 1 along with other private individuals vide the notification dated 17.01.2019 and thus, we are constrained to hold that the Judgement and order of the learned single Judge in WP (C) No. 43 of 2019 dated 28.10.2021 is liable to be set aside since the issuance of the PLSC /R/NS/47 /018 of 26/4/18 issued to Smt. Evelyn Beingiazi was done under the aforesaid mentioned circumstances which we find is unsustainable.

W.A No.20 of 2022

[28.] W.A No. 20 of 2022 is an appeal against the Judgment & Order of the learned Single Judge in WP (C) No. 18 of 2022 dated 02.06.2022. It is seen that the

writ appeal pertains to the same subject matter as in the writ appeal, WA No.18 of 2022, but in relation to different plot of land. The learned Single Judge did held that the writ petition, WP (C) No. 18 of 2022, was covered by the earlier Judgement and order dated 28.10.2021 in WP (C) No 43 of 2019 and accordingly disposed of the writ petition WP (C) No. 18 of 2022, with a direction to restore the land of the petitioners as was allotted to each of them by setting aside the impugned order dated 17.01.2019 in so far as the writ petitioners are concerned and held that if the land is required for public purpose, the same will have to be acquired as per the relevant land acquisition of law in force.

[29.] We are of the considered view that since we are constrained to set aside the Judgement and order of the learned single Judge in WP (C) No. 43 of 2019 dated 28.10.2021 for reasons already laid out in the foregoing paragraphs, we find that the Judgment & Order of the learned Single Judge in WP(C) No. 18 of 2022 dated 02.06.2022 being held to be a covered matter is also liable to be set aside.

[30.] Accordingly both the writ appeals, W.A No. 18 of 2022 and W.A No. 20 of 2022 stand allowed and disposed of.

JUDGE

JUDGE

Comparing Assistant