

GAHC020005182024



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

Case No. : I.A.(Civil)/129/2024

DR. SUNDERLAL LAL PAREEK
S/O LT. BAJRANG LAL PAREEK
R/O G.S. ROAD
DIMAPUR NAGALAND

VERSUS

MR. M.K. GUPTA AND 2 ORS
S/O LATE NAGINA
LHOMITHI VILLAGE
DIMAPUR NAGALAND 2:THE DEPUTY COMMISSIONER
DIMAPUR NAGALAND

3:LAND RECORD SURVEY OFFICER
DIMAPUR NAGALAN

Advocate for the Petitioner : P. B. PAUL,

Advocate for the Respondent : ,

**BEFORE
HON'BLE MR. JUSTICE KAUSHIK GOSWAMI**

ORDER

Date : 08.11.2024

Heard Mr. P.B. Paul, learned counsel for the applicant and
Mr. Aliba Ozukum, learned counsel for the opposite party.

By way of this application, the applicant is seeking direction for allowing the applicant to undertake repairing works of the main gate standing on the premises covered by Patta No.1368 Dag No.1425 of Dimapur Town Block No.7.

Pertinent that this Court earlier by order dated 17.9.2024 directed the Deputy Commissioner Dimapur or an Officer authorized by him to verify inter-alia as to whether the main iron gate of the subject premises requires repairing. Relevant portion of the order dated 17.9.2024 is reproduced here under for ready reference:-

“The present application has been filed to allow the applicant to undertake repairing works of the main gate standing on the premises covered by Patta no. 1368 under Dag no. 1425 of Dimapur Town Block no. 7, as well as to allow the applicant to cover the lift shaft on the said land to avoid accidents and also to prevent water-clogging and breeding of mosquitoes. Mr. Pfosekho Pfotte has also referred to the Notice dated 27.07.2024 issued by the GB of ZC Ward no. 18 Dimapur in which the applicant has been requested to undertake immediate repair and renovation of the main gate to avoid any untoward incident as well as to repair and renovate the plinth of the property to avoid water-clogging so that the place does not become a breeding place for mosquitoes spreading vector borne diseases.

Mr. Aliba Ozukum, the learned counsel for the respondent/petitioner on the other hand has filed an affidavit objecting to the application submitted by the petitioner and submits that the images projected in the photograph annexed by the applicant and that as projected by the petitioner/opposite party is quite different. The learned counsel for the opposite party/petitioner accordingly submits that it will be proper and in the interest of justice to allow the Deputy Commissioner to verify the spot and to ascertain whether the claims made by the applicant for undertaking the repair and to cover the lift shaft is factually correct.

Heard the learned counsels for the parties.

In order to enable this Court to pass necessary orders on the application submitted by the petitioner, this Court is of the considered view that it will be proper to direct the Deputy Commissioner, Dimapur or an officer authorised by him to verify as to whether the main Iron Gate of the premises covered by Patta no. 1368 under Dag no. 1425 of the Dimapur Town Block no. 7 requires repairing and as to whether the lift shaft on the ground requires to be covered so as to avoid accident and prevent water-clogging and breeding of mosquitoes. The Deputy Commissioner, Dimapur or the authorised officer shall accordingly verify as to whether the repairing sought for by the applicant will be necessary, taking into consideration that in the main writ petition status quo has been ordered by this Court.

The Deputy Commissioner, Dimapur or the authorised officer/representative while undertaking verification shall also take note of the Notice dated 27.07.2024 issued by the GB, ZC Ward no. 18, Dimapur.

The report on the verification shall be submitted to this Court within a period of 2 (two) weeks from today.

Mr. Veto V. Zhimomi, the learned Government Advocate shall furnish a copy of this order to the Deputy Commissioner, Dimapur for compliance."

Pertinent that on 4.10.2024 when the matter was listed, the learned State counsel submitted that the verification as directed by this Court earlier has been done and the report of the same has been received. In view of the aforesaid submission of the learned State counsel, this Court directed the respondents to file the said report by way of an affidavit. The respondent No.2 i.e the Deputy Commissioner, accordingly by filing an affidavit on 7.11.2024 has brought on record the verification report as directed by this Court by order dated 4.10.2024.

The verification report as enclosed in the said affidavit is

reproduced here under for ready reference:-

“ GOVERNMENT OF NAGALAND

OFFICE OF THE DEPUTY COMMISSIONER

DIMAPUR: NAGALAND

No. WP(C) 213/2022

Dimapur, Dated 30th September, 2024

VERIFICATION REPORT

The undersigned officials in compliance to the order of the Deputy Commissioner, Dimapur vide order No. WP(C) 213/2022/ Dimapur, Dated the 24th September, 2024 visited the plot of land bearing Patta No. 1368 under Dag No. 1425 at Block No. 7 on the 26th of September 2024. Upon inspection, it was observed that the structural integrity of the main Iron Gate within the premises of the aforesaid plot of land was compromised and it needed repair/restoration in view of public safety. Furthermore, the undersigned officials inspected the lift shaft located at the ground floor of the building and observed that the same needed to be covered as it could become a probable breeding ground for mosquitoes thereby putting at risk the health of the people in the locality.”

Perusal of the said report apparent that the structural integrity of the subject main iron gate is compromised and it needed repair/restoration in view of public safety. It is further apparent the lift shaft located at the ground floor of the building in question needs to be covered as it would become probable breeding ground for mosquitos thereby risking the health of the people in the locality. Therefore, the repair works as sought for in the present Interlocutory Application is necessary in view of

public safety.

Mr. Aliba Ozukum, learned counsel for the petitioner/opposite party fairly submits that he has no objection if the aforesaid repairing work as sought for in the present Interlocutory Application is allowed.

In view of the aforesaid verification report as well as in terms of the endorsement of the learned counsel for the petitioner/opposite party, this Court is of the considered view that the present Interlocutory Application warrants to be allowed.

Accordingly, it is directed that the applicant be allowed to undertake repairing works of the main gate and cover the lift shaft on the building standing on the land covered by Patta No.1368 under Dag No.1425 of Dimapur Town Block No.7.

The application stands allowed.

It is needless to be clarified that the aforesaid repairing work be completed within a period of one month from today.

JUDGE

Comparing Assistant