GAHC040001262017

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

Case No. : WP(C)/629/2017

Smti Moken Kamsi
W/O LATE DARKA KAMSI, RESIDENT OF UPPER COLONY, AALO, PO/PS AALO DIST WEST SIANG, AP.
VERSUS
THE STATE OF A.P.
REPRESENTED BY THE CHIEF SECRETARY, GOVT. OF AP, ITANAGAR.
2:THE DIRECTOR
Age: 0
Occupation :
LAND MANAGEMENT
GOVT. OF AP
ITANAGAR.
3:THE DEPUTY COMMISSIONER
Age: 0
Occupation :
AALO
WEST SIANG DISTRICT
AP.
4:THE ESTATE OFFICER CUM ADDITIONAL DEPUTY COMMISSIONER
Age: 0
Occupation :
AALO
WEST SIANG DISTRICT
AP.
5:THE DISTRICT LAND REVENUE and SETTLEMENT OFFICER
Age: 0
Occupation :
AALO
WEST SIANG DISTRICT
AP.
6:SHRI JUMMAR BAGRA
Age: 0
Occupation :

S/O LT. RAJUM BAGRA
PERMANENT RESIDENT OF JEYI VILLAGE
PO/PS AALO
DISTRICT WEST SIANG
AP
AND THE PRESENT RESIDENT OF UPPER COLONY
GAUR HILL AALO
PO/PS AALO
DISTRICT WEST SIANG
AP

Advocate for the Petitioner : MrT T Tara, Tao Tarin,Jumgam Jini,MR.A T Tara,MrG Bam,M Rime,MR.J Jini,MR.B Picha,Mr.D Loyi

Advocate for the Respondent : GA (AP), SC(L & M),MrO Pada,MS.M Jonnom,MR.V Jamoh,G Loyi

-BEFORE-

HON'BLE MR. JUSTICE ANJAN MONI KALITA

ORDER

14.09.2026

Heard Mr. B. Picha, learned counsel for the petitioner. Also heard Ms. R. Basar, learned State counsel representing State respondent Nos. 1, 3, 4 & 5 and Mr. O. Pada, learned counsel for respondent No. 6.

2. The petitioner's case is that the petitioner is in occupation of a plot of land measuring 780 Sq. Mtr at Upper Colony, Aalo, West Siang District since the year, 1997. It is stated that having possession over the land, the petitioner applied for land allotment on 29.10.1998.

3. Pursuant to application made by the petitioner on 29.10.1998, the Surveyor of the office of the Deputy Commissioner, Aalo prepared a survey report along with a map dated 01.07.2000. It is stated that in the said

report, it has been verified that the land measuring 780 Sq. Mtr in the aforesaid address is found to be in possession of the petitioner and it was feasible for allotment of the land as the same was free from any encumbrances as it is outside any government establishment. After preparation of the survey report, the Surveyor submitted the relevant papers before the authorities for further necessary action. It is stated that subsequent to the report submitted by the Surveyor dated 01.07.2000, the Deputy Commissioner, West Siang District, Aalo vide Order No. LM/WS-03/49/B/12-13/01 dated 09.04.2013 recommended the case of the petitioner and forwarded his case of allotment to the Director of Land Management, Govt. of Arunachal Pradesh, Itanagar for obtaining final approval from the Government of Arunachal Pradesh. While the final approval of the allotment of land of the petitioner was pending before the Government, on the basis of a complaint filed by the respondent No. 6, an order was issued by the Additional Deputy Commissioner-cum-Estate Officer, West Siang District, Aalo to the petitioner dated 22.08.2016, whereby, the petitioner was directed to vacate unauthorized occupation of portion of land in the 4.5 Mtrs wide road along with boundary of his occupied land in the existing road from the entry point to the boundary of Shri Jummar Bagra within 15 days from the date of issue of the order, failing which necessary eviction will be carried out without further intimation and eviction charge shall be borne by the petitioner.

4. Being aggrieved with the aforesaid order dated 22.08.2016, the petitioner filed an appeal before the Estate Officer, West Siang District, Aalo dated 'NILL'.

5. The petitioner's appeal was considered by the Deputy Commissioner, West Siang District, Aalo and vide an order dated 05.07.2017, the same was dismissed. The petitioner being aggrieved with the aforesaid 2 (two) impugned orders dated 22.08.2016 passed by the Additional Deputy Commissioner-cum-Estate Officer as well as the order dated 05.07.2017 passed by the Deputy Commissioner, West Siang District, Aalo has approached this Court by challenging the aforesaid 2 (two) impugned orders.

6. The learned counsel appearing for the petitioner primarily argued that the order dated 22.08.2016 has been issued without complying with the relevant provisions under the Arunachal Pradesh Public Premises (Eviction of Unauthorized Occupants) Act, 2003 (for short, 'the act of 2003'). He submits that in terms of Section 4 of the Act of 2003, a show-cause notice is required to be issued to any occupant allegedly occupying any public premises and he is required to be evicted. He submits that the order dated 22.08.2016 is a final order as is apparent from the order dated 22.08.2016, whereby, the petitioner was directed to vacate the portion of land allegedly occupied by the petitioner in 4.5 Mts Sq wide road along with boundary of his occupied land in the existing road from the entry point to the boundary of Shri Jummar Bagra within 15 days from the date of issue of the order, failing which necessary eviction will be carried out without further intimation and eviction charge shall be borne by the petitioner. He, therefore, submits that the petitioner was not given any opportunity to show-cause as he is in occupation of the plot of his land

only. He submits that without giving any opportunity of hearing and only on the basis of a complaint by the respondent No. 6, the authorities i.e. the Additional Deputy Commissioner-cum-Estate Officer, West Siang District, Aalo has passed the order which is in violation of Section 4 of the act of 2003. He submits that he is agreeable to the compliance of any order passed by the concerned authorities provided that the same is passed under the provisions of the Act of 2003.

7. Ms. R. Basar, learned State counsel, on the other hand, submits that the petitioner has unauthorizedly occupied certain portion of the approach road of respondent No. 6 and on receipt of the complaint from the respondent No. 6, a committee consisting of ADC, Aalo, DLR&SO, Aalo, the Deputy Director, Urban Development and Housing, Aalo was constituted by the Deputy Commissioner on 20.06.2016 to carry out a spot visit and settle and demarcate the approach road under dispute in between the petitioner and the respondent No. 6. It was directed that the committee shall submit a detailed report after completion of demarcation. The learned counsel submits that in terms of the aforesaid order dated 20.06.2016, the committee carried out the spot verification and submitted a report dated 09.08.2016. She submits that a report dated 09.08.2016 was prepared by the Additional Deputy Commissioner-cum-Estate Officer, West Siang District, Aalo, wherein, it has been reported that on an earlier occasion also, the Estate Officer and DLR&SO visited the area and settled the matter for keeping 4.5 Mts of land for road but the petitioner is not obliging the order to settle the issue. Therefore, the DC/ DM was requested to approve for passing an order for keeping 4.5 Mtrs along the boundary of his occupied land of the petitioner in existing road from entry

point of the boundary of the respondent No. 6. She submits that in terms of the aforesaid report, the impugned order dated 22.08.2016 was passed as the petitioner is occupying certain portion of the road of 4.5 Mtrs. as indicated in the report. She fairly submits that though the order dated 22.08.2016 was passed, the same was not passed in terms of the Section 4 of the Act of 2003 as no show cause notice was issued prior to the impugned order.

8. Mr. O. Pada, learned counsel for respondent No. 6 submits that he is only concerned with the encroachment of the approach road by the petitioner as in the event of any natural calamities with the approach road i.e. existing at present, shall not be able to cater the movement of heavy vehicles as well as Fire Brigades etc. He submits that if a proper demarcation is made by the concerned authorities and the encroachment is cleared then there will be no issue remained to be adjudicated. Mr. Pada further submits that when the appeal was filed by the petitioner before the Deputy Commissioner, there was another verification carried out by the Surveyor/Kanungo of the aforesaid road and it was found that the petitioner has not complied with the demarcation made by the DLR&SO on 25.05.2016.

9. After hearing the learned counsel appearing for the parties and taking into account the whole issue and since the counsel appearing for the parties are in agreement that the matter can be remanded to the Deputy Commissioner, West Siang District, Aalo for a fresh survey and demarcation and in the event it is found that the petitioner is still in occupation of certain portion of the road which is measuring 4.5 Mtrs in breadth, the authorities shall be at liberty to take action as per the

provisions of the act of 2003.

10. In view of the aforesaid, it is directed that the Deputy Commissioner, West Siang District, Aalo shall constitute a committee of officers including the DLR&SO and Estate Officer for verification on spot and thereafter, to complete the whole exercise of demarcation within a period of 1 (one) month from today and accordingly, shall pass a necessary speaking order after hearing the concerned parties. Accordingly, since the aforesaid direction has been passed by this Court, the impugned orders dated 22.08.2016 and 05.07.2017 are hereby set aside and quashed.

11. In view of the above, the instant writ petition is disposed of with the aforesaid directions.

Interim order, if any, stands automatically vacated.

JUDGE

CHECKED & VERIFIED

Digitally signed
by Talom Tali
Date: 2026.09.15
18:18:38 +05'30'