Item No.10

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

W.P. (C) No. 353 of 2018

Khaimang Kipgen, aged about 55 years, S/o late Ngamdem Kipgen of Bijang Village, Saitu-Gamphazol Sub-Division, P.O. Langjing Achouba & P.S. Gamnom Saparmeina, District Kangpokpi, Manipur.

…Petitioner

- Versus –

1. The State of Manipur, represented by the Commissioner/ Principal Secretary (Tribal Affairs & Hills), Government of Manipur.
2. Poubi R. Naga, aged about 58 years, S/o Late Alemba Kabui of Maha Kabui (Namching) Village, Saitu Gamphazol Sub-Division, P.O. Langjing Achouba, P.S. Patsoi, Sadar Hills West, Dist: Kangpokpi, Manipur.
3. R. Katangam aged about 73 years, S/o Late R. Khongoulung of Namthangjang Rongmei Village, Saitu Gamphazol, P.O. Langjing Achouba, P.S. Gamnom Saparmeina, Dist: Kangpokpi, Manipur.
4. Mr. Lanthaolung Gangmei aged about 80 years, S/o Late Dingamang of Khonglong Kabui Village, P.O. Langjing Achouba, P.S. Gamnom Sapermeina, Dist: Kangpokpi, Manipur.

…Respondents

B E F O R E
HON'BLE MR. JUSTICE K H. NOBIN SINGH

O R D E R

24.01.2020

[1] Heard Shri Ch. Dhananjoy, learned Senior Advocate appearing for the petitioner; Shri M. Rarry, learned Addl. Advocate General appearing for respondent No.1 and Shri D. Julius Riamei, learned Advocate appearing for the respondent No.2.

[2] The validity and correctness of the order dated 09-12-2016 issued by the Commissioner (Tribal Affairs & Hills), Government of Manipur is under challenge in this petition.

[3] According to the petitioner, he is the Chief of Bijang Village, which is a recognized Kuki Hill Village within the Sadar Hill District, Manipur and is a separate hill house tax paying village. Within the area of Longa Koireng Reserved Grass Mahal which is a very vast area having its own District boundaries, there are 7 (seven) recognized hill villages including that of the petitioner. In the notification dated 30-08-2006 published in the Gazette, the name of the petitioner has been recognized as the Chief of the said village. The petitioner being a Chief/Headman/ Khullakpa of the Bijang Village, acquired certain lands from Shri Ngamkhlun Lhunghim and Mrs. Maman Kipgen by executing two sale deeds dated 15-11-1999 and 12-06-2005, for which a notification dated 30-06-2006 was issued. The petitioner has been enjoying the said lands by paying hill house taxes to the concerned authority for the last 18 years.

[4] As regards the Notification dated 30-06-2006, the ADC, Kangpokpi wrote a letter dated 05-10-2015 informing the Under Secretary (TA & Hills), Government of Manipur that the cancellation of the said notification is not required as per the document enclosed therein. The SDC, ADC/Kangpokpi held an enquiry and submitted a report to the effect that he found no fault of the petitioner having encroached on the land of the neighbouring village. However, the Notification dated 09-12-2006 was issued cancelling the earlier Notification dated 30-08-2006 without any notice being given to the petitioner. The petitioner submitted a representation dated 18-04-2018 to the respondent No.1 requesting to cancel the Notification dated 09-12-2006 and being aggrieved by the inaction on the part of the respondents, the petitioner has filed the instant writ petition.

[5] An affidavit has been filed on behalf of the respondent No.1 stating that the Sub-Deputy Collector may not be the competent authority to issue the orders demarcating land boundary/ land schedule or giving ownership to an individual. It has further been stated that the Deputy Commissioner, Senapati vide his letter dated 06-12-2016 submitted a detailed report, with justification, with a request to take necessary action at the Government level stating that the Government order dated 30-08-2006 recognizing the land at Bijang Village is quite contradictory with the existing land boundary of its neighbouring villages. The order of the SDO, Saitu Gamphazol was issued on 24-11-2003 and the amalgamation order of the SDO affected the boundaries of the three villages. The order dated 09-12-2016 was issued by the then Commissioner (TA & Hills), Government of Manipur under his official capacity as Commissioner, Government of Manipur. It is a willful effort of the petitioner to sabotage the name and image of the Government official and therefore, the allegation of the petitioner is vehemently denied. An affidavit has been filed by the respondent No.2 stating that he is the Chief of the Chief /Khullakpa of Mahakabui (also Namching), formerly called as Mahakoireng village. In terms of the order and decree dated 28-09-1994 passed by the Court of Subordinate Judge, Manipur West, the distinct boundary of the village was settled and his late father petitioner was declared as the chief of Mahakabui village. The petitioner, without any notice being given to him, obtained an order from the State Government in respect of the land allegedly acquired through the sale deed and gift deed. It has also been stated that he filed a representation dated 26-09-2015 to the Principal Secretary (TA & Hills), Government of Manipur to revoke/cancel the Notification dated 30-08-2006. The petitioner is encroaching and interfering with his peaceful possession and enjoyment of the land, despite the order dated 09-12-2016 being issued by the Government of Manipur.

[6] When the matter is taken up today for consideration, Shri M. Rarry, learned Addl. Advocate General fairly submits that in view of the

contention made by the counsel appearing for the petitioner that the impugned order was issued without notice being given to him, the State Government may be given an opportunity to take a decision after opportunity being given to both the parties and after they being heard. In view of the above submission, the instant writ petition stands disposed of with the direction that the State Government shall consider the cases of the petitioner as well as that of the private respondent after giving them an opportunity of being heard and take a decision thereafter. Such an exercise shall be completed within 30 days from the date of receipt of a copy of this order and a new order shall be issued accordingly. If either of the parties is aggrieved by the new order, it is open to him to question the fresh order before the appropriate forum. The order dated 09-12-2016 shall remain suspended till the compliance with the above direction.

JUDGE

A.Surjit