



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

Case No. : WP(C)/5/2023

MR. KEVIHULIE ZAKIESATO
AGED ABOUT 24 YEARS,
S/O LATE KEVI ZAKIESATO,
H/NO.145, ZAKIESATO MANOR,
DISTRICT - DIMAPUR, NAGALAND

VERSUS

THE UNION OF INDIA AND 6 ORS
REPRESENTED BY THE MINISTRY OF RAILWAYS, GOVERNMENT
OF INDIA, RAIL BHAWAN, RAISINA ROAD, RAJPATH AREA,
CENTRAL SECRETARIAT, NEW DELHI - 110001

2:THE RAILWAY BOARD

MINISTRY OF RAILWAYS
GOVERNMENT OF INDIA

REPRESENTED BY THE SECRETARY
RAIL BHAWAN
RAISINA ROAD
RAJPATH AREA
CENTRAL SECRETARIAT
NEW DELHI - 110001

3:THE GENERAL MANAGER

NORTHEAST FRONTIER RAILWAYS

MALIGAON SHUTTLE GATE RD.
EAST MALIGAON

GUWAHATI - 781011
ASSAM

4:THE DIVISIONAL RAILWAY MANAGER/ESTATE OFFICER

N.F RAILWAY
LUMDING - 782447

DISTRICT - HOJAI
ASSAM

5:THE STATION MANAGER

DIMAPUR RAILWAY STATION

N.F. RAILWAY
DIMAPUR - 797112
NAGALAND

6:THE STATE OF NAGALAND

REPRESENTED BY THE COMMISSIONER AND
SECRETARY/SECRETARY
DEPARTMENT OF LAND REVENUE
GOVERNMENT OF NAGALAND
KOHIMA
NAGALAND

7:THE DEPUTY COMMISSIONER

DISTRICT - DIMAPUR
NAGALAN

Advocate for the Petitioner : A. ZHIMOMI, ESTHER,LHOUSINO,VIKETSONO

Advocate for the Respondent : CGSC, Y.P. GUPTA (R/1-5)

BEFORE
HON'BLE MR. JUSTICE DEVASHIS BARUAH

Advocates

For the petitioner : Mr. A. Zhimomi
For the respondents : Mr. Y.P. Gupta (R/1-5)
: Mr. E. Thiba Phom (R/6-7)

Date of Hearing : 01.09.2025

Date of Judgment : 01.09.2025

J U D G M E N T & O R D E R (O R A L)

Heard Mr. A. Zhimomi, learned counsel appearing on behalf of the petitioner, learned counsel, Mr. Y.P. Gupta appears on behalf of the Railway administration and learned Government Advocate, Mr. E. Thiba Phom appears on behalf of the respondent nos. 6 and 7.

2. The petitioner herein has approached this Court by invoking the jurisdiction under Article 226 of the Constitution challenging the order dated 16.12.2022 passed by the respondent no. 4 under Section 5 of the The Public Premises (Eviction Of Unauthorised Occupants) Act, 1971 (For short, the Act of 1971). The case of the petitioner herein is that the land wherein the respondents have passed the order dated 16.12.2022 falls within the land of the petitioner in Patta No. 131 issued to the petitioner on 01.08.1969 containing the Dag Nos. 19, 25, 251, 254 and 256 of Dimapur Town Block No. 3.

3. Per contra, it is the case of the respondents nos. 1 to 5 that the land in respect to which the impugned order dated 16.12.2022 was passed do not fall within the ambit of the Patta No. 131 dated 01.08.1969 and more particularly in respect to Dag numbers contained in the said Patta. It is further seen from the affidavit which was filed by the respondent no. 7 that pursuant to certain directions passed by this Court a field verification was carried out wherein it was found that the land in respect to which the impugned order dated 16.12.2022 was passed falls in Dag No. 10 Block No. 3 cadastral area Dimapur, measuring at 50,286 sq.ft or 03B-2K-09Ls.

It was mentioned in the Joint Verification Report that as per the records, Dag No. 10 is recorded as Railway Reservation Area. To the said Joint Verification Report, the map showing the said plot of land by the Department of Land Records & Survey of the Government of Nagaland had been enclosed.

4. To the said affidavit-in-opposition filed by the respondent no. 7, affidavits-in-reply have also been filed by the petitioner wherein a stand has been taken that the petitioner had only come to learn pursuant to the said Joint Verification Report that the land which is under occupation of the petitioner falls in Dag No. 10. It is the further case of the petitioner in the affidavit-in-reply that the petitioner as well as the forefathers has been in occupation of the said land since the 1940s and as such the reservation so sought to be made in respect to the said land in favour of the Railways was illegal.

5. Mr. A. Zhimomi, appearing on behalf of the petitioner further emphasized that during the recent re-settlement operation being carried out various illegalities have been committed in the preparation of the map as well as the settlement proceedings thereby the land presently in occupation of the petitioner have been brought outside the Patta 131 by creating a separate Dag being Dag No. 10.

6. This Court has duly heard the learned counsels appearing on behalf of the parties and perused the materials on record. The materials on record show that on one hand the petitioner herein claims that the land, which is in possession of the petitioner, is a part of Patta No. 131, whereas the

joint verification which has been carried out by the respondent authorities more particularly the respondent no. 7 shows otherwise. In terms with the Joint Verification Report, it appears that the respondent no. 4 had issued the impugned order dated 16.12.2022 in respect to Dag No. 10, which is a plot of land reserved for the Railways.

7. It is the opinion of this Court that from the materials on record and respective contentions it does not show that the title of the petitioner in respect to the Patta No. 131 has been disputed. The only issue is as to whether the petitioner is in occupation of the land which has been specifically reserved for the railway administration. Though the Joint Verification Report shows that the petitioner is in occupation of Dag No. 10, which is not a part of Patta No. 131, but the counsel for the petitioner urges that the land in Dag No. 10 so reserved is a part of Patta No. 131. What arises, therefore, for adjudication is as regards the identification of the land. This Court further takes note of that Section 9 of the Act of 1971 specifically provides an avenue for filing an appeal against an order passed by the Estate Officer under Section 5 of the Act of 1971. In the said appeal all these aspects can be very well dealt with.

8. Under such circumstances it is the opinion of this Court that it would not be proper on the part of this Court to exercise the extraordinary remedy when there is an effective, efficacious and alternative remedy available to the petitioner.

9. This Court further takes note of that the time period for filing the Appeal in terms with Section 9 of the Act of 1971 is 12 (twelve) days.

Considering that this Court is not exercising its extraordinary jurisdiction in the present dispute, this Court grants liberty to the petitioner to avail the remedy in terms with Section 9 of the Act of 1971. It is further observed that if the petitioner herein avails the remedy by filing an appeal within a period of 12 (twelve) days from the date of the present order, the learned Principal District and Sessions Judge, Dimapur before whom the Appeal has to be filed in terms with Section 9 of the Act of 1971 shall decide the said appeal on merits without insisting upon the question of limitation.

10. This Court further directs that during this period for the next 12 days, there shall be stay to the order dated 16.12.2022.

11. The learned Principal District and Sessions Judge shall decide the said appeal without being influenced by the observations made hereinabove.

12. With the above observations and directions, this Writ Petition stands disposed. The Interim Order passed earlier also stands vacated except to the extent indicated hereinabove.

JUDGE

Comparing Assistant