GAHC030004062023

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

Case No. : Cont.Cas(C)/12/2023

Lalenghluni
Mc Donald Hill, Zarkawt, Aizawl, Mizoram

VERSUS

Dr Renu Sharma and 15 Ors.
Chief Secretary to the Govt. of Mizoram, New Secretariat Building, New Capital Complex, Aizawl 2:Sh Lalthawmmawia

3:Sh C.Lalchhuana

4:Sh Vanlalchhuana

5:Sh Vanlalchhuanga

6:Sh R.Zarzosanga

7:Sh VL Hruaizela

8:Sh Nazuk Kumar

9:Sh Vanlalmuana

10:Sh R.Vanlalnghaka

11:Dr H.Lalthangliana

12:Sh Lalrinkima Hnamte

13:Sh Lalzarliana

14:Sh K.Vanlalthlana

15:Sh H.Zoramliana

16:Sh Robin Lalrinawm

Advocate for the Petitioner : Ms Valentina Laldinpuii

Advocate for the Respondent : Mrs. Mary Lalruatkimi Khiangte for R1-4, 9, 10-12, 14-16

:::BEFORE:::

HON'BLE MRS. JUSTICE HELEN DAWNGLIANI

Date on which judgment is reserved : 01.10.2026

Date of pronouncement of judgment : 12.10.2026

Whether the pronouncement is of the Operative part of the judgment : NA

Whether the full judgment has been Pronounced : Yes

Judgment & Order (CAV)

Heard Ms. Valentina Laldinpuii, learned counsel for the petitioner. Also heard Mrs. Mary L. Khiangte, learned counsel for all the respondents.

2. This application is filed under Section 12 of the Contempt of Courts Act 1971 read with Rule 9 of the Contempt of Court Gauhati High Court Rules 1977 read with Article 215 of the Constitution of India for initiating contempt proceedings against the respondents or contemnors for willful and deliberate disobedience of the order dated 17.08.2022 passed by this Court in WP(C) No. 128 of 2021. It may be apposite at this stage to refer to the relevant portion of the Judgment and Order dated 17.08.2022 passed by a Co-ordinate Bench of this Court in WP(C) No. 128 of 2021 as below:

"*7. In view of above, the Chief Secretary to the Government of Mizoram, (Respondent No. 1) shall constitute a verification team consisting of the Chief Engineer (Road), Public Works Department (Respondent No.4) or his representative, the Director, Land Revenue and Settlement Department (Respondent no.6) or his representative, and Deputy Commissioner-cum-District Collector, Aizawl (Respondent No. 8) or his representative, who shall verify the claim of the petitioner in the presence of the petitioner, within a period of 1 (one) month from the date of receipt of a certified copy of this order.*

8. The verification team consisting of the above persons shall verify whether the land of the petitioner has been used by the respondent Nos. 3 and 4 for construction of a public road. If the answer is in the affirmative, the respondents shall, within a period of 1(one) month from the date of the site verification take a decision as to whether they want to permanently acquire the said portion of land of the petitioner. If the answer is in the affirmative, the State respondents shall make a requisition for acquisition of the land as per law.

9. In the event, the state respondents are not willing to acquire the land of the

petitioner, the respondent No. 3 and respondent no.4 shall stop using the petitioner's land and shall verify and assess the damage caused to the petitioner's land, within a month from the decision taken by respondents No.3 and No. 4 and the petitioner may be compensated for the damaged caused, within a further period of 2 (two months from the date of the assessment."

3. The brief facts leading to the filing of the instant contempt petition are that the applicant is the owner of agricultural land which is registered as Agricultural Land Settlement Certificate No. 43/1978 and Agricultural Land Settlement Certificate No. G42/1980 both situated at Chite Lui. The properties were inherited by the petitioner. According to the petitioner the respondent authorities have undertaken construction of a public road within the two lands without her consent and knowledge and without any notice.

4. Being aggrieved, the petitioner approached the respondent authorities requesting them to verify the damage caused to her land and that if her land is required on a permanent basis the same should be acquired as per laws and the said representation was submitted on 16.07.2021 but she did not receive any response. Being aggrieved, the petitioner approached this Court by filing a writ petition which was registered as WP(C) No. 128/2021 with a prayer for constituting a joint verification team to verify her claim and to pay compensation if found due for acquisition of her land as per the existing laws and to pay damages caused to her private lands for construction of a public road within her

private land as was done in the case of WP(C) No. 148/2019 vide order dated 19.03.2020.

5. Accordingly, the writ petition was disposed of by this Court by the aforementioned order dated 17.08.2022 in line with the order passed by the Coordinate Bench of this Court in WP(C) No. 148/2019 on being satisfied that the facts are similar to the aforesaid case.

6. Ms. Valentina Laldinpuii, learned counsel for the petitioner submitted that a certified copy of the order dated 17.08.2022 passed in WP(C) No. 128/2021 was communicated to the contemnors on 05.09.2022. The learned counsel submitted that in terms of the order of this Court on 17.08.2022, the verification was duly conducted and it was verified that the respondents have indeed constructed a permanent road on the lands of the petitioners which was admitted by the Respondents Nos. 1, 2, 14 & 16 that in the year 2012-2013, a permanent road was constructed within the lands of the petitioner under the NLCPR and respondent No. 16 further admitted widening of road in the year 2012-2013 under the NLCPR Scheme. As the verification resulted in the affirmative, as per the direction of the court, the remaining directions left to be followed by the respondents are either to acquire the lands as per law and pay the petitioner for damages caused to the lands or in the event, the respondents

are not willing to acquire, they shall stop using the petitioner's land and verify and assess the damage caused. But the respondents have failed to do the same and the respondents have neither expressed their willingness to acquire the land nor have they vacated the land and stopped using the land of the petitioner nor any assessment made for the damage caused upon the land of the petitioner by such construction of permanent road. The conduct of the respondents, according to the petitioner, is wilful and deliberate violation of the clear direction of this Court and the respondents are liable to be punished in accordance with the provisions of the Contempt of Courts Act 1971 read with Article 215 of the Constitution.

7. On the other hand, Mrs. Mary L. Khiangte, learned counsel for all the respondents vehemently opposed the application by submitting that this Court in exercise of contempt jurisdiction cannot be used as an executing court. The learned counsel submitted that in compliance with the direction of this Court vide its order dated 17.08.2022, a verification team was constituted and verification was conducted on 21.10.2022, and the verification team had come to a clear and definitive finding for the three Garden LSC's of the petitioner and concluded that the claims made by the petitioner in respect of GLSC No. 43/1978 and GLSC No. 93/1986 are highly 'suspect' and cannot be entertained. The claim regarding GLSC No. 42/1980 is negated by evidence of pre-existing

road and the assertion of consent. According to the learned counsel, since the comprehensive verification exercised resulted in negative finding, concluding that the petitioner's land was not used by the respondents for road construction as alleged, the subsequent conditions of acquisition, cessation of use, or payment of compensation were not triggered.

8. Mrs. Mary L. Khiangte, therefore submitted that the respondents have fully and substantially complied with the primary and unequivocal direction of this court which is to constitute a team and conduct verification. The contempt jurisdiction is narrow and it cannot be converted into an appellate forum and if the petitioner is aggrieved by the findings of the verification team, they have other alternative legal remedy.

9. Section 2(b) of the Contempt of Courts Act, 1971 defines "civil contempt" as meaning:

> "*wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court*."

The issue which arises for determination is whether the conduct of the respondents, as disclosed from the materials placed before this Court, constitutes willful disobedience of the order dated 17.08.2022 so as to attract the provisions of Section 12 of the Contempt of Courts Act, 1971. While exercising contempt jurisdiction, the Court must be satisfied that there has been

disobedience of a clear and binding direction and that such disobedience is willful.

10. The Hon'ble Apex Court in the case of ***Jhareswar Prasad Paul & Anr Vs Tarak Nath Ganguly & Ors*** reported in ***AIR (2002) Supreme Court 2215***, while discussing the power of the Court in exercise of contempt jurisdiction has held as below:-

> "….***.The power to punish for contempt of courts is a special power vested under the Constitution in the courts of record and also under the statute. The power is special and needs to be exercised with care and caution. It should be used sparingly by the courts on being satisfied regarding the true effect of contemptuous conduct. It is to be kept in mind that the court exercising the jurisdiction to punish for contempt does not function as an original or appellate court for determination of the disputes between the parties. The contempt jurisdiction should be confined to the question whether there has been any deliberate disobedience of the order of the court and if the conduct of the party who is alleged to have committed such disobedience is contumacious. The court exercising contempt jurisdiction is not entitled to enter into questions which have not been dealt with and decided in the judgment or order, violation of which is alleged by the applicant. The court has to consider the direction issued in the judgment or order and not to consider the question as to what the judgment or order should have contained. At the cost of repetition be it stated here that the court exercising contempt jurisdiction is primarily concerned with the question of contumacious conduct of the party, which alleged to have committed deliberate default in complying with the directions in the judgment or order. If the judgment or order does not contain any specific direction***

regarding a matter or if there is any ambiguity in the directions issued therein then it will be better to direct the parties to approach the court which disposed of the matter for clarification of the order instead of the court exercising contempt jurisdiction taking upon itself the power to decide the original proceeding in a manner not dealt with by the court passing the judgment or order. If this limitation is borne in mind then criticisms which are sometimes leveled against the courts exercising contempt of court jurisdiction "that it has exceeded its powers in granting substantive relief and issuing a direction regarding the same without proper adjudication of the dispute" in its entirety can be avoided."

11. In the present case, the order dated 17.08.2022 imposed an express obligation upon the Chief Secretary to constitute a verification team consisting of the designated officers or their representatives. The team was required to verify the petitioner's claim in her presence within the period stipulated by the Court.

12. The record, as described in the submissions before this Court, indicates that a verification exercise was undertaken and that a report containing findings adverse to the petitioner's claims was prepared. The petitioner disputes the effect and correctness of those findings, asserting that the use of her land for construction of the public road had, in fact, been established. The respondents, on the other hand, rely upon the negative findings of the verification team to contend that no consequential obligation arose.

13. The existence of a verification report is relevant to the question of compliance. In other words, upon spot verification a situation arose which was not before this court at the time of passing the Judgment which is to the effect that in respect of GLSC No.43 of 1978 and GLSC No. 93 of 1986 the claim of the petitioner was found to be suspicious and which cannot be entertained for belated claim. In respect of GLSC No.42 of 1980 it concluded that the work was done with the consent of the petitioner and department did not commit any illegality.

14. The decisive question in contempt jurisdiction is not whether the petitioner agrees with the administrative findings, but whether a clear direction of the Court has been wilfully disobeyed.

15. The Court must also distinguish between a direction requiring the authorities to undertake a specified process and a direction requiring a particular substantive outcome. The order dated 17.08.2022 did not direct the respondents to acquire the petitioner's land or pay a specified amount of compensation irrespective of the outcome of the verification. Instead, it prescribed a verification exercise and set out the steps to be taken depending upon the result and the decision concerning acquisition.

16. Judging the instant case on the touchstone of the principles laid down in

Jhareswar Prasad Paul(Supra) above, it is an admitted fact that verification team was duly constituted as directed by this Court. The difference is on the interpretation of the findings of the Joint Spot verification team. As such, it may be apposite to reproduce the "Site Verification Report" as belows :-

"*Pursuant to the notification No. C.18017/590/2021-PWD(T), Dt.29.9.2022, a team consisting of the following members conducted a joint spot verification on 21.10.2022 at 12:00 noon.*

1. Er. C. Lalhmingthanga, CE (Roads) PWD.

2.Pu K. Rosanga, Surveyor, Land Revenue & Settlement Department, representing the Director LR&S Department.

3. Pu Isaac C. Lalrempuia, SDO (Sadar) representing the Deputy Commissioner-cum-District Collector.

The spot verification team was accompanied by the following officials.

1. Er. Lalchhuana, SE Central Circle, PWD.

2. Er. Romalsawma, Sr SDO, Aizawl Road North Division, PWD.

3. Er. Laltlanmawia Hnamte, JE, Aizawl Road North Division, PWD.

4. Pu Lalrinmawia, representing the land owners Pi Lalenghluni and Pu Lalduhzuala.

5. Pu Lalawmpuia, representing the land owners Pi Lalenghluni and Pu Lalduhzuala.

The land holders have stated that PWD has constructed a road passing through their lands without their knowledge, much less their consent. The road construction referred by the petitioners is done by PWD during 2012-2013 under the funding of NCPR. On scrutiny of their land passes and the actual land the following were observed:

1. GLSC No 42 of 1980:- On examination of the land pass, there was no

depiction of an existing jeep road. However, on examination of Google map of the same location for the year 2010, the map clearly shows an existing road at this location. The photographs of the Google map for 2010 as well as for 2023 showing the roads then as well as the present conditions is attached as Annexure 1 A and Annexure 1 B. Moreover statements from the Local Council Chairman of Ramthar North and Thuampui stating that there exists a jeepable road prior to 2010 are attached as Annexure 2 and 3. The length of Road passing through this plot of land is 180.00 m and the width of the existing road has been measured as shown in Annexure 4.

2. GLSC No 43 of 1978:- On examination of the land pass, there was no depiction of an existing jeep road. However, this plot of land is located on the downhill side of the road. Whenever PWD acquires land for road construction or road widening, land on the downhill side is never acquired for road construction. At this location, the land on the uphill side belonged to Pu Zosanga (l), of Ramhlun South. Though the land owner is deceased, his inheritors clearly remembered the construction period of the road and they have informed the team that at this particular stretch of road, any land acquired for road construction was done from Pu Zosanga's land only and none from Pi Lalenghluni's land.

3. GLSC No 93 of 1986:- There is a demarcation of 3.00m wide jeep road within the land as per the land pass. Moreover, there is also 5.00m wide road reserve within his land holding. No area is encroached for the construction of the metalled paved road. Regarding his claim for destruction of crops by soil from the excavation, due to heavy growth of vegetation there is no visible signs of destruction of crops at this late date.

In view of the observation of the site verification team as mentioned above, the claim made by the petitioner in view of GLSC No 43 of 1978 and

GLSC No 93 of 1986 are highly suspect and cannot be entertained at this late date. For claim regarding GLSC No 42 of 1980, the then Junior Engineer Pu Vanlalhruaia has stated that he personally visited Pi Lalenghluni and got her consent and signature for a document stating that she consented to the widening of the road. However, this document cannot be located. The department stands on the ground that the work for construction of the road was done with the consent of the land owners and no illegal action was committed by the PWD."

17. When we compare the direction of this Court vide judgment dated 17.08.2022 with the conclusion of arrived at by the Joint Spot verification team, it is noted that it was something which was not contemplated in the direction contained in the said Judgment have been concluded by the verification team. This is so because the directions of this court only contemplated a situation of acquisition or on failure to acquire whereas upon spot verification a situation arose which was not before this Court at the time of passing the Judgment which is to the effect that in respect of GLSC No. 43/1978 and GLSC No. 93/1986, the claim of the petitioner was found to be suspicious and which cannot be entertained for belated claim. In respect of GLSC No. 42/1980, it concluded that the work was done with the consent of the petitioner and department did not commit any illegality.

18. With findings and conclusion of the Spot verification team and as apparent from the submission of the rival parties, this Court is of the view that there is

clear contradiction in the interpretation of the conclusion of the spot verification report and the reason for the difference in the interpretation of the report was not before this Court at the time of passing the Order.

19. The law is clear that while exercising contempt jurisdiction, this court is not sitting in appeal. It only has to examine whether there was wilful and deliberate violation of the Court's Order and it also cannot function as an executing Court.

20. In the case of ***Ashok Paper Kamgar Union Vs Dharam Godha & Ors*** reported in ***(2003) 11 SCC 1***, the Hon'ble Supreme Court observed that:

> "…..*willful disobedience means an act or omission which is done voluntarily and intentionally and with the specific intent to do something the law forbids or with the specific intent to fail to do something the law requires to be done, that is to say, with bad purpose either to disobey or to disregard the law. It signifies a deliberate action done with evil intent or with a bad motive or purpose. Therefore, in order to constitute contempt the order of the court must be of such a nature which is capable of execution by the person charged in normal circumstances. It should not require any extraordinary effort nor should be dependent, either wholly or in part, upon any act or omission of a third party for its compliance. This has to be judged having regard to the facts and circumstances of each case. The facts mentioned above show that none of the respondents to the petition can be held to be directly responsible if the Scheme which had been formulated by the Government of India on 28-6-1996 and had been approved by this Court by the order dated 8-7-1996 could not be implemented in letter and spirit as many factors have contributed to the same. The reasons given for non-inclusion of Shri Umadhar Prasad Singh in signing of the agreement appear to be quite plausible. NCFL has undoubtedly not*

discharged its liability of making payment of its entire liability of Rs 6 crores. However, it has come out with a case that some additional expenditure has been incurred in running the unit. It is not possible to get the complete financial picture only on the basis of the affidavits filed in the present petition. On the material on record, therefore, it is not possible to hold that the charge of having committed contempt of court on account of alleged non-compliance with the orders passed by this Court on 8-7-1996, 1-5-1997 has been established against any one of the respondents."

21. Consequently, the Court cannot, in contempt jurisdiction, treat the conditional directions as an unconditional command to acquire the land or award compensation without first determining whether the relevant conditions have been fulfilled.

22. The petitioner has further contended that the road was constructed over her land without lawful acquisition and without payment of compensation. The protection of property under Article 300-A of the Constitution of India is undoubtedly an important constitutional safeguard. A person cannot be deprived of property save by authority of law. The legality of any acquisition, continued use of private land for a public purpose and entitlement to compensation must be examined in accordance with the applicable law and the facts established in the appropriate proceedings.

23. However, the existence of a substantive grievance concerning private property does not, by itself, establish contempt of court. The present proceeding

is confined to determining whether the respondents have wilfully disobeyed the directions issued in WP(C) No. 128 of 2021. The substantive dispute regarding the petitioner's title, the extent of the land allegedly utilized, the legality of such use and the petitioner's entitlement to acquisition or compensation cannot be conclusively determined by invoking the contempt jurisdiction.

24. The question of contempt must be determined principally with reference to the terms of the order, the conduct of the respondents after the order was communicated to them, the steps taken towards compliance and the existence or otherwise of deliberate disobedience.

25. Having considered the materials and submissions placed before this Court, it emerges that the respondents rely upon the constitution of a verification team and the preparation of a verification report as evidence of compliance with the primary direction issued by this Court. The petitioner, however, disputes the findings and maintains that the consequential obligations have not been discharged.

26. The controversy, in its present form, therefore, involves not only an allegation of non-compliance but also a substantial dispute concerning the factual findings of the verification team and the consequences flowing from them. The mere fact that the petitioner disputes an adverse verification report

cannot, without more, establish wilful disobedience on the part of the respondents.

27. In order to impose punishment for civil contempt, the Court must be satisfied that there has been wilful disobedience of a judgment, decree, direction, order, writ or other process of the Court, or wilful breach of an undertaking given to the Court. The element of wilfulness is essential. A finding of contempt cannot rest solely upon the petitioner's assertion that the respondents ought to have reached a different conclusion in the verification exercise.

28. In the facts presently placed before this Court, and in the absence of a sufficiently established basis to conclude that the respondents deliberately disregarded a clear and operative direction of this Court, the threshold necessary for initiating punitive action under Section 12 of the Contempt of Courts Act, 1971 has not been demonstrated.

29. This Court is, therefore, of the considered view that the contempt jurisdiction cannot be exercised merely to reassess the disputed factual conclusions/disputed question of fact contained in the verification report or to substitute this Court's determination of the petitioner's substantive claim for the administrative findings under challenge. Such adjudication, if warranted, must

be undertaken in appropriate proceedings in which the relevant evidence can be examined and the rights and obligations of the parties determined in accordance with law.

30. In view of the foregoing discussion, this Court finds that the material placed before this court does not establish the requisite standard of wilful and deliberate disobedience of the Judgment and Order dated 17.08.2022 passed in WP(C) No. 128 of 2021 so as to warrant punishment under Section 12 of the Contempt of Courts Act, 1971.

31. Accordingly, the contempt petition stands closed and disposed of. The proceedings for punishment for contempt are not warranted on the materials presently available before this Court.

32. There shall be no order as to costs.

JUDGE

Comparing Assistant