

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM: NAGALAND: MIZORAM & ARUNACHAL PRADESH)

ITANAGAR PERMANENT BENCH (NAHARLAGUN)

Crl. Rev. P. 12 (AP) 2015

*Relo Mimi,
S/o Gasi Mimi,
R/o Upper Roing,
Lower Dibang Valley,
Brinli Village, Hunli.*

...Petitioner

– VERSUS –

*The State of Arunachal Pradesh,
Represented by the learned Public Prosecutor, A.P.*

... Respondents

**::BEFORE::
HON'BLE MR JUSTICE NANI TAGIA**

Date of Judgment and Order (Oral):26.08.2019.

Advocate for the Petitioner: Mr. S. Mow

Advocate for the Respondents: Mr. J. Tsering, Addl. PP.

Heard Mr. S. Mow, the learned counsel for the petitioner and Mr. J. Tsering, the learned Addl. Public Prosecutor representing the State.

2. This Criminal Revision Petition is directed against the order dated 16.10.2015 issued by the District Magistrate, Lower Dibang Valley District, Roing under Section 133 Cr.P.C. which was served upon the petitioner on 24.10.2015, by which order, the petitioner was found to be illegally erecting building on a Govt. land near the Office of the Chairperson, Zila Parishad, Lower Dibang Valley District, Roing and the petitioner was directed to dismantle the building at his own risk within 72 hours from the date of issue of the order or else, the petitioner was directed to appear in person on 19.10.2015 at 1500 hours to show cause as to why eviction should not be carried out and the order be made absolute. Although, the petitioner was directed to appear in

person before the District Magistrate, Lower Dibang Valley District, Roing on 19.10.2015, the petitioner submitted his reply on 02.11.2015.

3. Upon consideration of the reply submitted by the petitioner, the District Magistrate, Lower Dibang Valley District, Roing by an order dated 04.11.2015 issued under Memo No.LDR/COURT/15-16/26585-91 made the order dated 16.10.2015 absolute and the petitioner was directed to dismantle the under construction building by 7th Day of November, 2015, failing which the officials would dismantle the same.

4. This Court by an order dated 06.11.2015 while issuing notice had stayed the impugned order dated 04.11.2015 issued by the District Magistrate, Lower Dibang Valley District, Roing.

5. Mr. Mow, the learned counsel for the petitioner submits that the District Magistrate, Lower Dibang Valley District, Roing under Section 133 of the Cr.P.C. is only empowered to issue a conditional order for removal of nuisance on the grounds made in Section 133 of the Cr.P.C. and the District Magistrate does not have power under Section 133 of the Cr.P.C. to pass eviction order even if the petitioner is illegally constructing a building on a Govt. land near the Office of the Chairperson, Zila Parishad, Lower Dibang Valley District, Roing.

6. On the other hand, Mr. J. Tsering, the learned Addl. PP submits that if the petitioner have illegally constructed a building on a Govt. land near the office of the Chairperson, Zila Parishad, Lower Dibang Valley District, Roing, the petitioner can be appropriately proceeded with under Arunachal Pradesh Public Premises (Eviction of Unauthorized Occupants) Act, 2003.

7. Having heard the learned counsels appearing for the parties as well as on perusal of the materials on record, I deem it appropriate to dispose of this Criminal Revision Petition by setting aside the orders dated 16.10.2015 and 04.11.2015 issued by the District Magistrate, Lower Dibang Valley District, Roing with a liberty granted to the Deputy Commissioner-cum- District Magistrate, Lower Dibang Valley District, Roing to proceed against the petitioner under the Arunachal Pradesh

Public Premises (Eviction of Unauthorized Occupants) Act, 2003 or any other relevant provisions of law if the writ petitioner is found to have illegally constructed a building on a Govt. land near the Office of the Chairperson, Zila Parishad, Lower Dibang Valley District, Roing.

8. It is ordered accordingly.

This Criminal Revision Petition stands disposed of in terms above.

JUDGE

Talor