

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

ITANAGAR PERMANENT BENCH NAHARLAGUN

WP(C) 345 (AP)/2014

1: Shri Tachi Hemi,
S/o Late Singtum Hemi, Resident of Gumin Yijo near Police Colony,
P.O./P.S. Aalo, District West Siang, Arunachal Pradesh.

2: Smti Lige Hemi,
W/o Shri Tachi Hemi, Resident of Gumin Yijo near Police Colony,
P.O./P.S. Aalo, District West Siang, Arunachal Pradesh.

....Petitioner

-VERSUS-

- 1: The State of Arunachal Pradesh represented by the Chief Secretary,
Government of Arunachal Pradesh.
- 2: The Secretary, Land Management, Government of Arunachal Pradesh,
Itanagar.
- 3: The Director, Land Management, Government of Arunachal Pradesh,
Itanagar.
- 4: The Superintendent of Police, West Siang District, Aalo, Arunachal
Pradesh.
- 5: The Deputy Commissioner, West Siang District Aalo, Arunachal
Pradesh.

.....Respondents

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

Advocate for the Petitioners :Mr. O. Duggong, Ms. N. Danggen, P. Sangeeta, Mr. T.

Tajom, A. Panor, T. Tatak, O. Perme, B. Gadi.

Advocate for the Respondents : Ms. K. Wangmo, State Counsel.

Date of hearing and Judgment : 10-06-2019

JUDGMENT & ORDER(ORAL)

None appears for the petitioner on call.

2. Heard Ms. K. Wangmo, learned Junior Government Advocate for the State respondents.

3. The petitioner has filed this writ petition challenging the impugned notice dated 05.09.2014 issued by the Superintendent of Police, West Siang District, Aalo vide No. DP/WS/LR/RTC/2013-14/271, whereby, the writ petitioners were directed to stop the construction of building and vacate the land within 20 days from date of issue of the notice, stating that the writ petitioners had encroached upon the police land of RTC, Aalo, by constructing SPT building in the land.

4. The case of the petitioners as projected in the writ petition is that the petitioners are in occupation of a plot of land measuring 500 Sq. Mtrs. at Gumin Yijo near Police Colony, Aalo since 1996. The writ petitioner contends that the said plot of land occupied by them was earlier a rejected land for human settlement. The petitioners developed the land by spending their hard earned money for construction of OBT dwelling house in the year 1996. Thereafter, the petitioners applied for regular land allotment in the name of the wife before the respondent No. 5, the Deputy Commissioner, Aalo during the year 1999. It however, did not

yield any positive result but the petitioners continued to remain in occupation of the said land.

5. While the petitioners were in continuous occupation of the land in question, the respondent No. 4, the Superintendent of Police, West Siang District, Aalo issued the impugned notice dated 05.09.2014 whereby, the petitioners were directed to vacate the land within 20 days stating the land to be the police land RTC. The petitioners in the present writ petition has questioned the very power and jurisdiction of the Superintendent of Police to issued the impugned eviction notice, by contending *inter alia* that the Superintendent of Police is not the Estate Officer and does not have the power and jurisdiction to issue the impugned eviction notice dated 05.09.2014.

6. The respondent No. 4, the Superintendent of Police, has filed the counter affidavit wherein at paragraph 4, it has been stated that as per the standing order No. 78 vide No. PHQ/GEN/1035/2006 dated 12.07.2006, issued from the Office of the Director General of Police, Itanagar, the Superintendent of Police have been entrusted with all the power including eviction of unauthorized occupation of Police land in their respective Districts/Units. It is further, stated therein that the circular/addendum to standing order No. 44 vide No. PHQ/RI/SO-NO.44/88, dated 27.08.2005, the Superintendent of Police is empowered to nominate the senior most officer in charge as a Estate Officer and accordingly in the instant case the Deputy Superintendent of Police (HQ) was designated as Estate Officer of Arunachal Pradesh Police, West Siang District by the Superintendent of Police, West Siang District, Aalo vide No. ALG(R)/65/97-05, dated 30.08.2005.

7. In view of the statement made in paragraph 4 of the counter affidavit filed by the respondent No. 4 namely, Superintendent of Police,

West Siang District, Aalo to the effect that it is the Deputy Superintendent of Police (HQ), who is the Estate Officer of Arunachal Pradesh Police, West Siang District, the impugned order dated 05.09.2014, issued by the Superintendent of Police, West Siang District, Aalo directing the writ petitioners to vacate the land within 20 days appears to be issued without any jurisdiction. As per the affidavit filed by the Superintendent of Police himself, it is the Deputy Superintendent of Police (HQ), West Siang District who is authorized and competent to initiate the eviction proceeding with regard to the Police land of RTC at Aalo.

8. In that view of the matter, the impugned order dated 05.09.2014 issued by the Superintendent of Police, West Siang District, Aalo vide No. DP/WS/LR/RTC/2013-14/271, is hereby, set aside and quashed with a liberty granted to the respondents to proceed afresh for eviction of the petitioners in accordance with law, if they are in occupation of the police land.

9. The writ petition is allowed to the extend indicated above and **disposed of.**

JUDGE

J.Bam