

THE GAUHATI HIGH COURT  
(HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA  
MIZORAM AND ARUNACHAL PRADESH)  
ITANAGAR PERMANENT BENCH  
NAHARLAGUN

Appeal from  
Writ Petition (Civil)

WP(C) No. 29... (AP) 2011

Sri Gangte Lalik.

Appellant  
Petitioner

-Versus-

STATE of AP & 2 ORS.

Respondent  
Opposite Party

Counsel for the Appellant  
Petitioner

Mr. Jony Pestim.  
Mr. A. Hima.

Counsel for the Respondent  
Opposite Party

GA.

Noting by Officer or Advocate	Serial No.	Date	Office,note,reports,orders or Proceeding with signature
(1)	(2)	(3)	(4)

**-AND-  
IN THE MATTER OF:**

Gangte Lalik,  
S/o Gangte Togung,  
'G' Sector, Naharlagun, Papum-Pare  
District, Arunachal Pradesh.

**--Petitioner**

**-Versus-**

1. The State of Arunachal Pradesh represented by the Secretary, IPR Department, Government of Arunachal Pradesh, Itanagar.
2. The Director, Land Management, Government of Arunachal Pradesh, Itanagar.
3. The Director, IPR Department Government of Arunachal Pradesh, Naharlagun.

**-----Respondents**



**W P (C) No. 29 (AP) 2011**

**BEFORE  
THE HON'BLE MR. JUSTICE HRISHIKESH ROY**

25-01-2011

The petitioner who is serving as Conductor (Ticket Checker) in the State Transport Department and whose allotted Govt. quarter at G Sector, Naharlagun was gutted through a fire accident and who was thereafter permitted to temporarily occupy nearby Govt. land in G Sector, Naharlagun, challenges the order dated 18.1.2011 (Annexure-P/2) of the Estate Officer, Itanagar Capital Complex whereby, the petitioner has been directed to vacate the area as the IPR Department is going to make constructions in the concerned area.

2. Mr. T Pertin, learned counsel appearing for the petitioner submits that the petitioner occupied the Govt. land under pressing circumstance after a fire razed his Government provided quarter and since alternate Govt. quarter has not been allotted to him, he is continuing with such occupation since last over a year. The counsel points out that the petitioner's two school going minor daughters are to appear in their school final examination and the petitioner accordingly be granted time to make alternate arrangements. The learned counsel further submits that although the impugned order has been passed by the Estate Officer without affording any prior notice as is required under *Section 4(1) of the Arunachal Pradesh Public Premises (Eviction of Unauthorized Occupants) Act, 2003*, the petitioner in the given circumstances may not challenge the legality of the said order, if he is allowed to retain possession of the present site for a period of 3 months on humanitarian ground, in view of the ensuing examinations of his minor daughters.

3. Mr. N Lowang, learned Addl. Senior Govt. Advocate submits that the petitioner has no right to occupy vital Govt. land in G Sector and since departmental constructions are to be raised in the said area, all encroachers must make away for constructions to begin without any delay. However Mr. Lowang submits that if the petitioner gives an undertaking before the Estate Officer to vacate



the occupied area within a reasonable time, the Estate Officer may keep in abeyance, the impugned eviction order dated 18.1.2011.

4. In view of the willingness of the petitioner to vacate the occupied area and considering his temporary hardship, I am inclined to permit the petitioner to retain possession for a limited period subject to furnishing an undertaking to the Estate Officer, to vacate the occupied area on or before 15.4.2011. The outer time limit is considered as the Government construction is not expected to commence before April, 2011.

5. Subject to furnishing of the above undertaking by 27<sup>th</sup> January, 2011, the Estate Officer is restrained from enforcing the eviction order through coercive measures. However if no undertaking is given by 27.1.2011, the Estate Officer shall be at liberty to execute the eviction.

6. With the above direction, this case stands disposed of. However it is made clear that the petitioner shall have no right to retain possession of the occupied area on the strength of this Court's order with effect from 15.4.2011 and he shall positively vacate on or before 15<sup>th</sup> April, 2011.

  
**JUDGE**