

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

Appeal From
Writ Petition (Civil)

WPC No. 91 (AP) 2010

Shri Dango Tara
 -Versus-

Appellant
Petitioner.

The State of AP & H ors.

Respondent
Opposite Party.

Counsel for the Appellant
Petitioner.

D - Panging
 S. V. Darang
 D. Soki
 C. N. Pangyok

Counsel for the Respondent
Opposite Party.

C.A (AP)
 MR Mudang Bhatt
 " H. Chetia
 " P. Sonar
 " G. Tadi

Respondent NO-325

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

-AND-

IN THE MATTER OF:

Shri Dango Tara,
R/O Vivek Vihar, Itanagar,
Papumpare District, presently
serving at Hunli, Lower Dibang
valley District as Block
Development Officer.

.....Petitioner

-Versus-

1. The State of Arunachal Pradesh represented by the Chief Secretary, Govt. of Arunachal Pradesh, Itanagar.
2. The Commissioner, Department of Home, Govt. of Arunachal Pradesh, Itanagar.
3. The Additional District magistrate-Cum- Estate Officer, Itanagar Capital Complex.
4. The Officer-In-Charge, Itanagar Police Station, Itanagar
5. Shri Talo Potom, Additional District magistrate-Cum- Estate Officer, Itanagar Capital Complex, Office of the Deputy Commissioner, Capital

Complex, P.O. Naharlagun,
Papumpare District, Arunachal
Pradesh.

.....Respondents

WP(C) 91 (AP) 2010

BEFORE
THE HON'BLE MR. JUSTICE HRISHIKESH ROY

[21ST January, 2011]


Heard Mr. D. Panging, learned counsel for the petitioner and also heard Mr. M. Batt, learned counsel appearing on behalf of the respondents.

2. This case is connected with WP(C) 56 (AP) 2010, which was disposed of today through a separate order. In this case also, the parties are represented by the same set of lawyers and the matter pertains to the proceeding initiated by the private respondent No.5 as an Estate Officer under the provisions of the *Arunachal Pradesh Public Premises (Eviction of Un-authorized Occupants) Act, 2003* (hereinafter referred to as "*the Eviction Act*").

3. On the basis of a complaint made by the *Dera Natung Government College* authorities that a well was dug by the petitioner within the campus of the College, a proceeding under the *Eviction Act*, was drawn up against RD Lewi, the writ petitioner in WP(C) 56 (AP) 2010 and he was ordered to appear before the Estate Officer. As it was contended by Shri R. D. Lewi that the well in question, was dug by the present petitioner, the Estate Officer summoned the petitioner to appear as a witness in the proceeding under the *Eviction Act*.

4. Interestingly, by the impugned order dated 16-03-2010, the Estate Officer also directed the Officer-in-Charge of the Itanagar Police Station to register a case under Section 447, 427 IPC read with Section 3 of *the Prevention of Damage Public Property Act, 1984* against the petitioner.

5. It is submitted by Mr. Panging that the petitioner is not shown as an encroacher in the list of encroachers furnished by the College authorities and in fact in the communication of the Principal of the College on 05-03-2010, it is made clear that the well alleged to have been dug within the College campus, has been abandoned and the College authorities have no further grievance against the petitioner.



6. Mr. M. Batt, learned counsel representing respondents concedes that the College authorities do not treat the petitioner to be an encroacher of any College land and accordingly in so far as the encroachment matter is concerned, the petitioner is not required to answer any charge under the *Eviction Act*.

7. Mr. D. Panging, learned counsel accordingly submits that the petitioner has no objection to appear as a witness in the proceeding before the Estate Officer. However, he submits that the said officer could not have ordered the police to register a case against the petitioner for alleged violation of Section 427/447 of IPC read with Section 3 of *the Prevention of Damage Public Property Act, 1984*.

8. Representing the respondents, the learned counsel concedes that ordering the police to register a case against the petitioner ought not to have been ordered by the Estate Officer as such power is not vested on him under the *Eviction Act* and the petitioner simply should have been summoned as a witness.

9. Since the petitioner is agreeable to participate in the proceeding as a witness and the order of the Estate Officer to register a police case is found to be unjustified, the impugned order dated 16-03-2010 (Annexure-7) is set aside and quashed. However, it is made clear that the petitioner would render his necessary cooperation as a witness in the proceeding under the *Eviction Act* before the Estate Officer.

10. The petition stands disposed of with the above direction.

sd


JUDGE