

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

(ITANAGAR BENCH)

W.P.(c)273(AP)2011

1. Shri Dejir Tamuk

S/O Tanyo Tamuk
Permanent resident of Gune village
P.O./P.S. Pasighat East Siang District
Arunachal Pradesh, presently residing at
Pasighat Town near Sanggo Gas Agency under
same district.

2. Shri Okom Yosung

S/O late Olem Yosung
Permanent resident of Kelek Mirbuk village
P.O./P.S. Pasighat, East Siang District
Arunachal Pradesh, presently residing at
Pasighat Town near Sanggo Gas Agency,
Pasighat.

3. Shri Okop Tamin

S/O Late T. Tamin
Permanent resident of Mongku village
P.O./P.S. Pasighat, East Siang District
Arunachal Pradesh, presently residing at
Pasighat Town under same district.

4. Shri Tapang Dai

S/O Sri Odang Dai
Permanent resident of Mikong village
P.O./P.S. Ruksin East Siang District
Arunachal Pradesh, and presently residing at
Forest Colony, Pasighat.

5. Shri Obijon Rukbo

S/O Late Rokkin Rukbo
Permanent resident of Kelek Mirbuk village
P.O./P.S. Pasighat, East Siang District
Arunachal Pradesh, presently residing at
Pasighat Town near Sanggo Gas Agency.

6. Shri Onyok Gao

S/O Sri Mada Gao

Permanent resident of Gune village

P.O./P.S. Pasighat East Siang District

Arunachal Pradesh, and presently residing at

Pasighat Town near Horticulture College.

7. Shri Tapum Tamuk

S/O Sri T. Tamuk

Permanent resident of Pasighat Town

P.O./P.S. Pasighat East Siang District

Arunachal Pradesh, presently residing at

same address.

8. Shri Kebung Tamuk

S/O Sri T. Tamuk

Permanent resident of Riew village

P.O./P.S. Boleng East Siang District

Arunachal Pradesh, presently residing at

Pasighat near Agriculture Godown.

9. Shri Mukpel Lego

S/O Late T. Lego

Permanent resident of Mirbuk village

P.O./P.S. Pasighat East Siang District

Arunachal Pradesh, presently residing at

same address.

.... Petitioners**-Versus-**

1. The State of Arunachal Pradesh, represented by the Secretary, Land Management, Govt. of Arunachal Pradesh.
2. The Secretary, Department of Forest & Environment, Govt. of Arunachal Pradesh, Itanagar.
3. The Deputy Commissioner, Pasighat East Siang District.
4. The Divisional Forest Officer, East Siang District, Pasighat, Arunachal Pradesh.
5. The Estate Officer, Pasighat East Siang District, Arunachal Pradesh.

..... Respondents

For the petitioners : Mr. Chorpok Modi
 For the respondents : Ms. Anima Mize, Govt. Advocate

:::BEFORE:::
HON'BLE MRS. JUSTICE RUMI KUMARI PHUKAN

Date of hearing : **08.09.2015**

Date of Judgment : **01.10.2015**

JUDGMENT & ORDER (CAV)

Present petition has been filed under Article 226 of the Constitution of India challenging the legality and validity of the impugned eviction notice served to the petitioners by Divisional Forest Officer, Pasighat dated 11.7.2011 vide Order No.EFD/8-24/Pt-VI/4640-4739 under Section 25(a)(d)(f) of the Assam Forest Regulations, 1881 and Section 2(ii)(iv) of the Forest Conservation Act, 1980; directing the petitioners to vacate the land under their occupation within seven days without disposal of the representation dated 14.7.2011.

2. The facts necessary for disposal of the matter, in hand, is that the petitioners, altogether, 9 in nos., are stated to be in occupation of a plot of land measuring 573 sq. mtrs. which is located in the backside of Gandhi Middle School under Pasighat Township since 1973 by constructing OBT houses and residing alongwith their families. The said disputed land was donated by the forefathers of the petitioners without any compensation to the Government. After long occupation and possession over the said plot of land, they have also applied for obtaining the allotment order from the Land Management Authority. But, during pendency of the said application, the Divisional Forest Officer(DFO), Pasighat, has served the impugned eviction notice to the petitioners on 11.07.2011 without due process of law. It has also been challenged that the land, in question, is not a forest land and they have no authority to issue such notice. Moreover, the Deputy Commissioner, Pasighat, has given allotment order against the adjacent land in favour of the occupants who were residing over the said land. The other portion of the land has also been allotted to Horticulture College in addition to AYUSH

Hospital. They have made a complaint before the said DFO, after receipt of the said eviction notice, regarding encroachment by the Forest Department of the Government land occupied by the petitioner, and the same is pending. It is also contended that had the notice been issued by the Estate Officer under Section 5 of the Arunachal Pradesh Public Premises(Eviction of Unauthorized Occupants) Act, 2003, the petitioner would have accepted such notice but in the given case, eviction notices were issued to them. For the last few many years, the indigenous people belonging to ADI Tribe settling on the vacant area outside the fencing of the Horticulture College and backside of the residence of the Deputy Commissioner and, as such, sudden issuance of eviction notice is not maintainable and same is liable to be set aside for non-consideration of their representation. In fact, as directed by the Deputy Commissioner, Pasighat, they have also attended a meeting on 12.07.2011 on the matter, in question, and the same is also not finalized. It has been contended that the said land belongs to the Department of Land Management, Government of Arunachal Pradesh and not to the Department of Forest as its falls within the Township of Pasighat. So the eviction notices are bad in law and liable to be set aside. It has also been stated that during the pendency of the case of the petitioners in the Court of Estate Officer, Pasighat, the DFO Pasighat has issued the impugned eviction notices.

3. The respondent authorities have entered their appearance through the Government Advocate and they have advanced their arguments orally but did not file any counter affidavit.

4. Heard Mr. Chorpok Modi, learned counsel for the petitioners and Ms. Anima Mize, learned Government Advocate, appearing for the State Respondents.

5. It is the pleaded case of the petitioners that they were possessing the land without any authority of law though they have applied for the Land

Possession Certificates(LPCs) but it is not yet received by them. Apparently, they are unauthorized occupants of the Government land. They have hardly any legal right to challenge the eviction order so passed by the Forest Department. The learned counsel for the petitioner has given stress upon the letter so issued by the Deputy Commissioner dated 12.07.2011 that in view of assurance given by the Deputy Commissioner to protect the interest of the occupants on the above plots of land, the eviction notice is bad in law. After going through the said letter/Minutes of Meeting, held on 12.07.2011, it, however, reveals that the said Deputy Commissioner has allowed the Divisional Forest Officer(DFO) to carry-out the eviction process of the encroachers of the Government land. The other claim that some other persons have been given allotment of land might be given in due procedure of law and there is nothing to show that the said land do not fall in the green belt area.

6. Further, by their own documents, the writ petitioners have admitted that they have been served with notices by the Estate Officer to vacate their plots of land being unsatisfied with the show-cause replies given by them and instead of preferring an appeal against such order of the Estate Officer, they have preferred the instant writ petition without having any legal right to make the claim.

7. Such claim of the petitioners cannot be amenable to the writ jurisdiction under Article 226 of the Constitution of India. The learned counsel for the respondents has also brought to the notice of the Court that similar prayer was made by another group of persons challenging the same order of the Divisional Forest Officer(DFO), Pasighat, which has been disposed of by this Court, in WP(c) 258(AP)2011, without interfering with the impugned notices dated 11.07.2011, which I have gone through.

8. In view of matters on record, it can be concluded that there is no merit in the petition so as to interfere with the eviction orders/ notices so

issued by the said Divisional Forest Officer (DFO), Pasihat. Accordingly, this writ petition stands dismissed. However, there shall be no order as to costs.

JUDGE

Bhask