

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

WP(c) 213 (AP) 2014

Smti N. Bonu Wangcha
W/O Shri K. Wangham
Village Nginu, Camp - Longding.

.....Petitioner

-Versus-

1. Govt. of Arunachal Pradesh to be represented by Secretary, Land Management, Itanagar, Arunachal Pradesh.
2. Director of Land Management, Govt. of Arunachal Pradesh, Itanagar.
3. Deputy Commissioner, District Longding, Arunachal Pradesh.

.....Respondents

Advocates for the Petitioner : Mr. T. Rigia
Mr. M. Nibo
Mr. N. Opo

Advocates for the Respondents: Ms. Hage Laxmi, learned Govt. Advocate

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

Date of hearing : 18-02-2015

Date of Judgment & Order : 05.03.2015

JUDGMENT & ORDER (CAV)

Heard Mr. Michi Nibo, learned counsel appearing for the petitioner. Also heard Ms. Hage Laxmi, learned Govt. Advocate appearing for State Respondents No. 1 and 3. However, Mr. Kento Jini, learned standing counsel, representing Respondent No. 2(Director, Land Management, Government of Arunachal Pradesh, Itanagar) is absent today.

2. Mr. Nibo, learned counsel for the petitioner, in this matter, has submitted that the instant petitioner is in possession of a plot of residential land measuring an area of 10x6=60 sq. mtrs. situated at Deputy Commissioner Office Colony, Longding. During her peaceful occupation, however, the Respondent No. 3 viz. Deputy Commissioner, Longding, have issued the Eviction Notice dated 03.06.2014 under Office Memo No. LDG/REV-5/96-14(Vol-II) against the petitioner, on the ground that she has encroached upon the government land whereas the petitioner has contended that the said land of the petitioner is a private land and thus, the question of encroachment upon the Government land, does not arise since the Office of the Deputy Commissioner, Longding, is bounded by the said compound wall and the plot of land, in dispute, is located outside the said compound wall and is at a distance of 11 mtrs. from the said compound wall, and as such, the eviction notice so issued by the Deputy Commissioner Longding, as stated above, is highly illegal and the same may be quashed, outrightly.

3. The further case of the petitioner is that she had applied for land allotment against the said plot of land. In that regard, the Land Management Department have verified the occupation of the petitioner's land and thereafter, plot No. 567 has been issued to her on non-finding of any encumbrances on the said plot and the allotment process, in that regard, is yet to be completed. The petitioner contends that if there would have been any objection by the Land Management Department, then Plot Number and allotment process against the said land, would not have been allowed to continue which goes on to show that the petitioner have not violated any rules and guidelines of the Government.

4. Mr. Nibo, learned counsel for the petitioner, has further submitted that the plot of land, in question, is purely a private land and it is used for agricultural purpose by the petitioner. Subsequently, an OBT residential house was constructed by the petitioner on the said plot of land and

accordingly, requisite revenues for water and electrical bills are regularly paid by her, to the authorities concerned.

5. In response to the impugned order of eviction dated 03.06.2014, the petitioner has submitted a representation in the form of written reply on 09.06.2014, requesting the Respondent No. 3 viz. Deputy Commissioner, Longding, to recall the said eviction notice dated 03.06.2014, served on her with regard to the land, in question. The said representation/written reply is yet to be considered and disposed of by the authorities concerned.

6. Mr. Nibo, learned counsel for the petitioner, has further submitted that the OBT building constructed by the petitioner for her residential purpose has been built from her hard-earned money, and in such a situation, if the said Deputy Commissioner, Longding, eventually evicts the petitioner from the said plot of land, then she will be left with nowhere to go, as such, the petitioner has prayed for setting aside the impugned eviction order dated 03.06.2014.

7. The State Respondent No. 3 has filed the counter affidavit in this matter, wherein, it has been contended that the present petitioner is the wife of Sri Kingwang Wangham, who was working as a Mandal in the Deputy Commissioner's office, Longding, and he has been transferred to Kurung Jumej District, some time back. It has been further contended that the plot of the land of the petitioner, is adjacent to the compound wall of the DC's Office complex and the said plot of land, is a government land located within the heart of the Longding Town. It is the case of the said Respondent No. 3 that the plot, in question, has been already earmarked for construction of Govt. Quarter for the District Food and Civil Supplies Department as per the Sketch Map finalized/drawn and authenticated by the then Additional Deputy Commissioner(independent charge), on 24.11.2011, before creation of the new Longding District.

8. The further case of the said Respondent No. 3 is that the said Sketch Map was prepared by the husband of the petitioner Shri Wangham, himself, who was a Mandal, by profession, of the Deputy Commissioner's Office, Longding. The Eviction Notice dated 03.06.2014 was issued by the Extra-Assistant Commissioner(LM) on behalf of the Estate Officer since regular Estate Officer/ADC (Head Quarter) was out-of-station for official work. It is also the case of the State Respondent No. 3 that in the meantime, the State Government have directed all the Deputy Commissioners of the State to implement the Govt. directions stringently, against the encroachers upon the government land by the private individuals.

9. However, on humanitarian ground, the State Respondents have agreed in principle to allot an alternative plot of land in lieu of the land, in dispute, in the name of Shri Kingwang Wangham, husband of the present petitioner, viz. plot no. 567 measuring 150 Sq. mtrs., for which necessary sketch map has also been drawn by the competent authority. But the main contention of the Respondent No. 3 is that the aforesaid alternative plot of land may be recommended to the State Government for approval in favour of the petitioner only when the present encroached plot of land is vacated by the petitioner. The submission of the petitioner that her occupied plot of land is a private land and is used for agriculture purpose, is a wrong submission as the State Respondent No. 3 has contended that it is purely a government land, located within the heart of Longding Town and the connection of water supply and electricity to the petitioner's residence at the said plot of land and the alleged payment of such bills to the concerned Govt. Departments by the petitioner, are not authorized by the District Administration. In response to the written reply of the petitioner requesting for exemption from eviction, the same cannot be considered by the State Respondents since the plot of land, in dispute, has already been earmarked by the State Government for construction of government infrastructure apart from the fact that the said plot of land is not suitable for allotment to any private individual for residential purpose. The other contention of the State Respondent No. 3 is

that the husband of the petitioner was working as a Mandal in the Deputy Commissioner's Office, Longding, at the time of encroachment upon the land, in question, before his release on transfer to Kurung Kumey District, and the temporary structure so raised by the petitioner on such unauthorized occupation, is wholly illegal, for which, the State Respondents cannot compensate the petitioner, either, in cash, or, in kind. The State Respondent No. 3 has also contended that the petitioner has encroached upon the prime government land, as stated above, and as such, the Court may not grant him any relief as sought for.

10. I have heard the rival submissions of the contesting parties, at length and have also perused the records and other documents that have been made available before the Court, by the petitioner as well as the State Respondent No. 3.

11. Upon consideration of entire aspect of the matter, this writ petition is hereby disposed of with the direction to the petitioner to vacate the occupation of the land, in question, on her own, within a period of 30(thirty) days from the date, if and when an alternative plot of land suitable for residential/agricultural purpose is provided to her, as has been pleaded by the State Respondent No. 3 in his counter affidavit.

12. It is hereby made clear that the authorities concerned shall *first* provide the said alternative plot of land, as directed above, to the petitioner; failing which the petitioner shall, neither, be forcefully evicted from the present disputed plot of land by the State Respondents, nor, her standing structures shall be forcibly demolished by the authorities concerned, on any count.

13. Furthermore, till such an alternative plot of land is provided to the petitioner along with the requisite land allotment documents/Land Possession Certificate (LPC) by the State Respondents, as prescribed above, it is hereby

directed that the petitioner shall continue to occupy her present plot of land, however, without making any further construction(s), if any, on the said plot of land.

14. With the above directions, this writ petition stands disposed of.

JUDGE

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