

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

**WP (C) 101(AP) 2011**

1. Shri Phasang Rai,  
S/o Phassang Kia,  
R/o Karshinsa, Papum Pare District,  
Arunachal Pradesh.
2. Shri Phassang Kap,  
S/o Lt. Phassang Hanu,  
R/o Karshinsa, Papum Pare District,  
Arunachal Pradesh.

.....**Petitioners**

***-Versus-***

1. The State of Arunachal Pradesh through the Secretary, Land Management, Government of Arunachal Pradesh, Itanagar.
2. The Deputy Commissioner, Itanagar Capital Complex, Naharlagun, Arunachal Pradesh.
3. The General Manager, State Transport Department, Govt. of Arunachal Pradesh, Naharlagun.
4. The Estate Officer, Itanagar Capital Complex, as appointed under Arunachal Pradesh Public Premises (Eviction of Unauthorized Occupants) Act, 2003.

.....**Respondents**

For the Petitioners : Mr. L. Perme, Adv.  
For the State Respondents : Mr. T. Wangmo, Govt. Adv.

Date of hearing : **14-09-2017**  
Date of judgment (Oral) : 14-09-2017.

**::BEFORE::**  
**THE HON'BLE MR JUSTICE A. M. BUJOR BARUA**

**JUDGMENT AND ORDER (ORAL)**

Heard Mr. L. Perme, learned counsel for the petitioners and Ms. T. Wangmo, learned Govt. Advocate for the State respondents.

**2].** The petitioners claim to be in occupation of a plot of land located at Karshinsa in Papum Pare District of Arunachal Pradesh since the year 1970. On the other hand, it is the case of the State respondents that by an order No. CP/LA-14/82, dated 03.04.1986 of the Chief Project Officer, Govt. of Arunachal Pradesh at Itanagar an area measuring 15.00 acres as per map enclosed and the boundaries

provided therein was allotted to the General Manager, State Transport Department, Naharlagun. As such, it is the case of the respondents that the said land is a govt. land, which had been allotted to Govt. Department and therefore, the petitioner has no right to continue to remain over the same.

**3].** By that as it may, a proceeding was initiated as regards the claim of the petitioner to remain in occupation of the land which numbered as Civil Appeal No. ADM/EO/CC-09/20085200-05, dated 31.03.2009 in the Court of the Executive Magistrate-cum- Estate Officer, Capital Complex, Itanagar. In the said proceeding an order dated, 31.03.2009 was passed, wherein it was provided that the petitioner is required to vacate the concerned land within a period of 7 (seven) weeks from the date of the order. In the said order, it was provided that although the petitioner was given an opportunity of hearing but he could not prove his right over the land.

**4].** Against the order dated 31.03.2009, the petitioner had preferred an appeal before the Deputy Commissioner, Capital Complex, Itanagar. It is stated by the learned counsel for the petitioner that to his knowledge, the said appeal is still pending and no final order has been passed whereas, on the other hand, according to the learned counsel for the State respondents, the said appeal was duly disposed of by the Deputy Commissioner, Capital Complex, Itanagar. But be that as it may, the petitioner also makes a claim that the petitioner was not given any opportunity to present his case in the appeal and had the opportunity been given, he could have established his case. Nothing can be indicated by the State respondents that the Deputy Commissioner, had given an opportunity to the petitioner to present his case and substantiate the grounds that have been taken in the appeal, dated 04.05.2009.

**5].** On the other hand, it has also been brought to the notice of the Court that the Addl. District Magistrate-cum- Estate Officer in case No. ADM/EO/CC-37/2009 had passed another order dated 15.12.2010, which apparently, appears to be in respect of the same land which

was involved in the order, dated 31.03.2009. It is stated by the learned counsel for the petitioner that against the order dated 15.12.2010 some of the interested persons had moved a writ petition before this Court being WP (C) 48 (AP) 2011. The said writ petition was disposed of by the order 08.02.2011, wherein the order dated 15.12.2010 had been set aside. As the said order had been set aside, the order for eviction contained therein can no longer be acted upon to evict the petitioner.

**6].** But, however, an another order of 31.03.2009 had also been passed against the petitioner for his eviction and an appeal having been preferred against the same, it is now by the Deputy Commissioner to decide the said appeal on its own merit by giving the petitioner an opportunity of hearing. As already concluded, no materials could be produced that any opportunity of hearing was given to the petitioner in such proceeding. Accordingly, as the petitioner was not given due opportunity of hearing to present his appeal before the Deputy Commissioner, this Court is of the view that the ends of justice would be met, if the petitioner is given an opportunity of hearing to present his case and also to present any kind of materials in order to substantiate his case in the appeal dated 04.05.2009. Accordingly, it is directed that the Deputy Commissioner, Capital Complex, Itanagar shall afford the petitioner an opportunity of hearing by allowing him to produce any material as he desires and may take final decision on the appeal filed by the petitioner.

**7].** Although, an order dated 31.08.2009 of the Deputy Commissioner, appears on record and the said order mentions that the petitioner was given an opportunity of hearing to present his case but the petitioner states that in fact no opportunity of hearing was given and the said observation of the Deputy Commissioner is incorrect.

**8].** But be that as it may, as this Court by the order dated 08.02.2011 had set aside the similar orders of eviction dated 15.12.2010 which is in fact a subsequent event, this Court deems it

appropriate that the petitioner be given another opportunity to present his case in the hearing before the Deputy Commissioner, Capital Complex, Itanagar.

Accordingly, the Deputy Commissioner, would now give the petitioner an opportunity of hearing within a period of 1 (one) month from the date of receipt of a certified copy of this order.

This writ petition stands closed in terms of the above.

**JUDGE**

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