

IN THE GAUHATI HIGH COURT
(The High Court of Assam: Nagaland: Mizoram and Arunachal Pradesh)

ITANAGAR PERMANENT BENCH

CRP NO. 08(AP)2018

Shri Jorik Bagra, S/o Shri Marjo Bagra,
Resident of Village Pakam-II, P.O/P.S
Aalo, District West Siang, Arunachal Pradesh.
Ph. No. 8259906703.

.....Petitioner

-Versus-

1. The Deputy Commissioner, Aalo, District West Siang, Arunachal Pradesh.
2. The DLR&SO –cum- Revenue Officer, Aalo, West Siang District, Arunachal Pradesh.
3. Shri Kento Ete, S/O Shri Boken Ete, President of All Ato Paktu Ao Welfare Society (AAPAWS), resident of Paktu Boken Market Aalo, P.O/P.S-Aalo, West Siang District, Arunachal Pradesh.
4. Shri Gumli Lollen, S/o Lt. Togum Lollen, General Secretary AAPAWS, resident of Dego-Panya, P.O/P.S-Aalo, West Siang District, Arunachal Pradesh.

.....Respondents

By Advocates:

For the Petitioner : Mr. K. Lollen
Mr. L. Bam
Mr. B. Nyicyor

For the respondents : Ms. G. Ete, learned Addl. Sr. Govt. Advocate
(for respondents No. 1 and 2)
Mr. R. Saikia (for respondents No. 3 and 4)

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

Date of hearing &
Date of judgement : **18.06.2018**

JUDGEMENT & ORDER (ORAL)

Heard Mr. K. Lollen, learned counsel for the petitioner.

Also heard Ms. G. Ete, learned Addl. Sr. Govt. Advocate for respondent Nos. 1 & 2 and Mr. R. Saikia, learned counsel for respondent Nos. 3 & 4.

2. The petitioner herein is a member of the All Ato Paktu Ao Welfare Society (AAPAWS) which is a registered society having its own Bye-laws. A plot of land measuring 8,600 Sq. meters at Aalo was allotted in favour of AAPAWS as per the allotment order dated 22.05.2015 by the Deputy Commissioner, West Siang District, Aalo.

3. The allotment order specifically provides that the plot of land was allotted for the purpose of Paktu Heritage Centre and the terms and conditions of the allotment order amongst others provide for:

"9.: The plot should not be utilized for any purpose other than for which it is allotted.

12.: The plot allotted is not transferable and in heritable, nor shall it be sub-allotted or subleased without prior consent obtained in writing from the Government.

18.: The allotment on the lease basis will remain in force for a period of 30 (thirty) years unless revoked earlier on which the event properties shall revert to the Government.

25.: Violation of any of these terms and conditions will render the allotment liable to be cancelled and or buildings or structures erected thereon to be demolished for which no claim of compensation what-so-ever shall lie to any Court of law.”

4. The Executive Body of AAPAWS in its meeting held on 10.10.2017, had deliberated upon a resolution that an area measuring 1000 Sq. meters shall be separated from the land allotted to AAPAWS for the Paktu Heritage Centre in exchange of some other land of WRD office, Aalo.

5. Thereafter, another meeting of the Executive Body of the society was held on 18.10.2017, in which a decision was taken to part with the aforesaid 1000 Sq. meters of land in exchange of some other land belonging to WRD office. It is stated that some Officials of the Revenue Department also participated in the said meeting.

6. Be that as it may, the decision to part with 1000 Sq. meters taken in the aforesaid meeting was assailed by some of the members of the society by filling representation before the Deputy Commissioner, West Siang District, Aalo on 02.01.2018. The said dispute raised by the members of the society was referred by the Deputy Commissioner before the Revenue Court under Section 79 of the Arunachal Pradesh (Land Settlement and Record) Act, 2000.

7. In the dispute raised before the Revenue Court, it was the contention of some of the members of the society that as per the allotment order dated 22.05.2015, the land was specifically allotted for the purpose of Paktu Heritage Centre and that Clause 9 of the terms and condition specifically provided that the plot should not be utilized for any other purpose other than the purpose for which it was allotted, and further that Clause 12 provides that the plot cannot be transferred or inherited or be sub-allotted or subleased without any prior consent in writing from the Government. Specific reference

also had been made to Clause 25 of the terms and condition which provided that violation of any of the terms and condition will render the allotment liable to be cancelled.

8. The revenue Court by its order dated 19.02.2018 in case No. LM/WS-01/04 (PT-II) arrived at a conclusion that under Article XIV Clause 7 of the Bye-laws of the society, the president also has the discretionary power over such matters and subjects which are not specified in the Bye-laws, by taking consent of the executive body of the members of the society, and therefore, the society had the jurisdiction and authority to separate the land allotted to them.

9. In our view the issue before the Revenue Court was not whether the president had the power to decide any matter beyond what is provided under the Bye-laws. The real issue for the decision was whether in view of the Clause 9, 12 and 25 of the terms and condition of the allotment order dated 22.05.2015, the executive body of the society could have taken a decision to part with a land allotted to them by the order dated 22.05.2015.

10. Accordingly, as the issue involved in the dispute raised had not been appropriately adjudicated by the Revenue Court, this Court is of the view that it is a fit matter to be remanded back to the Revenue Court for proper adjudication on the issue actually raised before it.

11. Therefore, the order dated 19.02.2018 of the District Land Revenue and Settlement Officer cum Revenue Officer West Siang District in Case No. LM/WS-01/04 (PT-II) is interfered and remanded back to the Revenue Court for appropriate adjudication as indicated above. In doing so the Revenue Court shall give a proper hearing to both the petitioner as well as the respondent and allow them to produce any relevant materials that they may desire to produce and also allow them to raise any contention for deciding the issue as to whether a part of the land could have been separated in view of the terms and condition provided in the allotment order dated 22.05.2015. In doing so the Revenue Court shall also take into consideration the relevant provision of the Rules framed under the Land Allotment Act.

12. Mr. Lollen, learned counsel for the petitioner makes a submission that in furtherance of the decision to separate a part of the land certain constructions are being undertaken by the WRD.

13. The petitioners are given the liberty to file proper application before the Revenue Court for any interim order that will be justified in the matter and on such application being filed the Revenue Court shall pass an appropriate order.

JUDGE

Victoria