

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

ITANAGAR PERMANENT BENCH

WP(C) No. 290(AP)2018

Sri Taku Jerang, S/o Shri Dubin Jerang,
Permanent resident of Pangin,
P.O.-Pangin & P.S.- Boleng,
Siang District, Arunachal Pradesh.

.....Petitioner

-VERSUS-

1. The State of Arunachal Pradesh through the
Commissioner, Land Management,
Government of Arunachal Pradesh,
Itanagar.
2. The Director, Land Management
Department, Government of Arunachal
Pradesh, Itanagar.
3. The Deputy Commissioner, Siang District,
Pangin, Arunachal Pradesh.
4. The ADC-cum-Estate Officer, Siang District,
Pangin, Arunachal Pradesh.

.....Respondents

By Advocates:

For the petitioner:

Mr. N. Ratan,
Mr. B. Tajik
Mr. K. Loya,
Mr. O. Sitek
Mr. T. Taggu,
Mr. R. Ngomle
Mr. M. Ete,
M. Ninu

For the respondents:

Government Advocate,
Mr. K. Jini, Standing Counsel (Land Management)

:::BEFORE:::

HON'BLE MR. JUSTICE A M BUJOR BARUA

Date of hearing : **19.06.2018**

Date of Judgment : **19.06.2018**

JUDGMENT AND ORDER

Heard Mr. N. Ratan, learned counsel for the petitioner. Also heard Mr. S. Tapin, learned Senior Government Advocate appearing for the State authorities.

2. The petitioner who was the original inhabitant of Pangin village were in possession of a plot of land measuring 400 Sqmtr. since time immemorial. Since many years, the petitioner and his family members are residing in the said plot of land which is located near the Boys Hostel, Government Higher Secondary School, Pangin by constructing a semi-permanent type house.

3. The Additional Deputy Commissioner, Boleng in terms of the Notification No. LM-102/2010 dated 24.05.2012 issued by the

Commissioner, Land Management Department, Government of Arunachal Pradesh was pleased to issue a Provisional Land Allotment vide notification No.BLD-305/10-11 dated 25.03.2013 in favour of the petitioner. While the petitioner was expecting for a regular allotment order in his favour, the Extra Assistant-cum-Commissioner, Pangin vide order dated 14.04.2013, had directed the Officer-in-Charge of Boleng Police Station to evict the petitioner from the said land. Being aggrieved by the said order, writ petition WP(C) No.145(AP)/2013 was preferred by the petitioner, which was disposed of by the order dated 02.05.2013, whereby, the order of eviction was set aside.

4. Thereafter, the petitioner was served with another eviction order dated 25.01.2016 and being aggrieved, he preferred WP(C) No.41(AP)/2016, which was disposed of by order dated 24.02.2016, by which the eviction order was again set aside.

5. Subsequently, the petitioner was served another Show Cause Notice dated 08.08.2017, against which he had submitted his reply. But without giving due consideration to the reply of the petitioner an order of eviction dated 06.12.2017 was passed by the ADC-cum-Estate Officer, Siang District, Pangin.

6. Being aggrieved by the eviction order dated 06.12.2017, the petitioner preferred an appeal under Section 12 of the Arunachal Pradesh Public Premises (Eviction of Unauthorized Occupants) Act, 2003, before the Deputy Commissioner, Siang District. In the said appeal, the Deputy Commissioner, Siang District, Pangin had passed an order dated 14.06.2018 by which the appeal of the petitioner was dismissed.

7. Being aggrieved by the order dated 14.06.2018 of the Deputy Commissioner-cum-Appellant Officer, Siang District, the present writ petition has been preferred by the petitioner.

8. The operative part of the order dated 14.06.2018 is as follows:
"...I have found no any genuine reasons to stay the enforcement

order issued by the Estate Officer, Pangin vide his order No. SD/LM/EST.Officer-02/2016-17(TJ), Dated Pangin the 6th December 2017 issued against the petitioner and same is upheld...”

9. A bare perusal of the order reflects that the Deputy Commissioner-cum-Appellate Officer had failed to give any reason as to why the appeal of the petitioner is to be rejected and the order of the Estate Officer is to be upheld. The Deputy Commissioner-cum-Appellate Officer while discharging the quasi judicial function is bound under the law to give reasons for any decision. Providing for any reason is a fundamental of law and without reasons being stated, order passed by a quasi judicial authority stands vitiated by itself.

10. In view of the infirmity noticed in the order of the Deputy Commissioner-cum-Appellate Officer dated 14.06.2018 and as agreed by the learned counsel for the parties, and also considering the interest of the petitioner as well as that of the State authorities, it is deemed appropriate that instead of passing an interim order, it would be more appropriate to set aside the order dated 14.06.2018 of the Deputy Commissioner-cum-Appellate Officer and remand the matter back to the authority for an appropriate adjudication of the appeal preferred by the petitioner.

11. While considering the appeal, the Deputy Commissioner-cum-Appellate Officer shall provide an adequate opportunity to the petitioner as well as to the State authorities to raise any contention and to provide any material that they may desire to produce in support of their respective contentions and upon considering the same, the Deputy Commissioner-cum-Appellate Officer shall pass a reasoned order. As the order of the Deputy Commissioner-cum-Appellate Officer has been set aside, it is appropriate that in the interest of justice, till any order is passed by the Deputy Commissioner-cum-Appellate Officer, on the matter being remanded, the petitioner be not evicted from his premises.

12. In view of the interim protection given to the petitioner, it is provided that the Deputy Commissioner-cum-Appellant Officer shall dispose of the entire appeal within 3(three) months from the date of receipt of certified copy of this order.

JUDGE

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