

**IN THE GAUHATI HIGH COURT**

(THE HIGH COURT OF ASSAM: NAGALAND: MIZORAM & ARUNACHAL PRADESH)

**ITANAGAR PERMANENT BENCH (NAHARLAGUN)**

**WP(C)28(AP) of 2014**

Shri Paksing Malling,  
S/O Lt. Tapak Malling.  
R/O Sigin Colony, Daporijo.  
P.O/P.S; Daporijo, Upper Subansiri District.  
District: Upper Subansiri, Arunachal Pradesh.

..... Petitioner.

**– VERSUS –**

1. The State of Arunachal Pradesh represented by the Chief Secretary, Government of Arunachal Pradesh, Itanagar.
2. The Director, Land Management, Govt. of Arunachal Pradesh, Itanagar.
3. The Deputy Commissioner, Daporijo, Upper Subansiri District, Arunachal Pradesh.
4. The Estate Officer, Daporijo, Upper Subansiri District, Arunachal Pradesh.
5. The District Land Allotment Advisory Board(DLAAB), represented through its Chairman cum Deputy Commissioner, Daporijo, Upper Subansiri, Arunachal Pradesh.
6. The Land Revenue and Settlement Officer, Daporijo, Upper Subansiri, Arunachal Pradesh.
7. Shri Pakbu Natam, Son of Lt. Tapak Natam, Sigin colony, Daporijo, Upper Subansiri District, Arunachal Pradesh.

..... Respondents.

Advocates for the Petitioner: Mr. M. Pertin  
Mr. K. Dhabhi  
Mr. C. Gongo  
Mr. W. Sawin  
Mr. B. Bui  
Mr. L. Perme  
Mr. K. Taron  
Mr. H. Tayo

Advocates for the Respondents: Ms. P. Pangu, Govt. Advocate

**::: BEFORE :::**

**HON'BLE MR. JUSTICE NANI TAGIA**

**JUDGMENT AND ORDER (Oral)**

**11.06.2019**

Heard Mr. M. Pertin, learned senior counsel for the petitioner and Ms. P. Pangu, learned Junior Govt. Advocate, representing respondents No. 3 to 6.

None appears for the respondent No.7.

**2.** This writ petition has been filed by making following prayers:-  
(i) order dated 22.02.2012, passed by the Additional Deputy Commissioner-cum-Estate Officer, Daporijo, Upper Subansiri District, vide Memo. No. LM/DRJ-221/2011-12 be set aside,  
(ii) order dated 07.10.2013, passed by the Deputy Commissioner, Daporijo, vide No. LM/DRJ-221/2011-12 be set aside,  
(iii) the recommendation made by DLAAB of 2005-06 to the private respondent No.7 for allotment of land to the private respondent No.7, vide order dated 18.01.2006 be set aside,

(iv) the Government approval order, dated 27.03.2006, vide No.LR-29/80 (Vol-II) in favour of Shri Pakbu Natam at serial No. 165, be set aside; and (v) for a direction to rectify the excess occupied plot of land in terms of the Government Notification, dated 24.05.2012.

**3.** Although this writ petition has been filed making as many as five prayers as indicated above, yet Mr. Pertin, learned senior counsel for the petitioner, has confined his arguments in respect of the prayers No. (i) and (ii) only i.e., the order dated 22.02.2012, passed by the Addl. Deputy Commissioner-cum-Estate Officer, Daporijo, Upper Subansiri District, vide Memo. No. LM/DRJ-221/2011-12 as well as the order dated 07.10.2013, passed by the Deputy Commissioner, Daporijo, vide No. LM/DRJ-221/2011-12. Accordingly, the writ petition has been heard only to determine the extent of legality and validity of the impugned orders, dated 22.02.2012 as well as 07.10.2013 passed by the Addl. Deputy Commissioner-cum-Estate Officer, Upper Subansiri District, Daporijo and the Deputy Commissioner, Daporijo, Upper Subansiri District respectively.

**4.** In a land dispute between the petitioner and the private respondent No.7 with regard to a plot of land measuring an area of 160 sq. mtrs at Sigin Colony, Daporijo; the Addl. Deputy Commissioner-cum-Estate Officer, Upper Subansiri District, Daporijo, vide order, dated 22.02.2012, referred to above, had passed the following order:-

***" 1. The claim of the petitioner over the disputed plot of land is found to be justified.***

***2. The claim of the respondent could not be established as the respondent could not produce any documents in support of his claim.***

***3. Though it is well established that the plot of land in question is belongs to the petitioner, but considering the long occupation of the plot by the respondent, an opportunity is given to the respondent that if he wants to retain the said plot, he should arrange an alternate plot in Daporijo town within one month from the date of pronouncement of this order and failing***

***which he is to vacate the plot enable the petitioner to occupy the allotted plot.”***

**5.** Aggrieved by the aforesaid order, dated 22.02.2012, passed by the Addl. Deputy Commissioner-cum-Estate Officer, Upper Subansiri District, Daporijo, the petitioner filed an appeal before the Deputy Commissioner, Daporijo, under Section 12 of the Arunachal Pradesh Public Premises (Eviction of Unauthorized Occupants) Act, 2003. On the appeal filed by the petitioner against the said order, dated 22.02.2012, the Deputy Commissioner, Daporijo, in exercise of the powers conferred under the Arunachal Pradesh Public Premises (Eviction of Unauthorized Occupants) Act, 2003, vide order, dated 07.10.2013, had passed the following order:-

***“1. The appellant Paksing Malling claim over the disputed land has no legal firmity as such there is no valid documents appears to me as ascertained the land in question is belongs to him, therefore claim is not justified in fact of law.***

***2. That in responded to the appeal petition submitted by the appellant, the Estate Officer order and judgment to arranged alternative plot within one month is absolutely in valid as such local agreement is not concerned with the Govt. and there is no such provision under the Arunachal Pradesh Public Premises (Eviction of Unauthorized Occupants) Act, 2003. Therefore I am inclined to setting aside the order of Ld. Estate Officer Daporijo particular to this order rest I am upheld the judgment and order of the Ld. Estate Officer Daporijo which was passed on dated 22.02.2012.***

***3. That appellant has been allotted plot measuring 350 Sqmtrs in the contiguous to the Respondent. Therefore the double allotment to the single person is not at all consider. Whereas respondent has only this allotted plot and his is deserved for this particular allotment.***

***4. That Ruling of SCC as presented by the counsel for the appellant is not attracted in this case, it was regarding non-communication of allotment letter as well as non-***

***compliance of terms of allotment, whereas in this case allotment letter was communicated that the Pakbu Natam for which he was paid land revenue and the land record department has verified the plot and the district land authority advisory board has recommended the case of the Pakbu Natam and it was approved by the Govt. under Vide No. LR-29/80-VOL-II dated 26.03.2006.***

***5. That appellant Shri Paksing Malling is directed not to disturb the peaceful occupation of the respondent and also to vacate the materials from the allotted plot of Shri Pakbu Natam/Respondent within 7(seven) days from the date of receive of the judgment order.***

***6. That non-compliance on the part of appellant deserved criminal action as per law."***

**6.** From perusal of the above two impugned orders, dated 22.02.2012 passed by the Addl. Deputy Commissioner-cum-Estate Officer, Daporijo, and the order, dated 07.10.2013 passed by the Deputy Commissioner, Daporijo, it appears that the Addl. Deputy Commissioner-cum-Estate Officer, Daporijo, as well as the Deputy Commissioner, Daporijo while exercising the power under the Arunachal Pradesh Public Premises (Eviction of Unauthorized Occupants) Act, 2003, have acted like a Civil Court. The power and jurisdiction of the Estate Officer as well as the Deputy Commissioner under the Arunachal Pradesh Public Premises (Eviction of Unauthorized Occupants) Act, 2003, is confined and limited to conducting a summary proceeding for the propose of eviction of the unauthorized occupant from the "public premises" as defined under the said Act of 2003. "Public premises" under the Act of 2003 have been defined to be a land, building etc. belonging to the Government. Therefore, any proceeding initiated under the Act of 2003 should be for the purpose of eviction from the land, building etc. of the Government.

**7.** In the present case, land dispute having occurred between the petitioner and private respondent No.7, the Addl. Deputy Commissioner-cum-Estate Officer, Upper Subansiri District, Daporijo, as well as the

Deputy Commissioner, Upper Subansiri District, Daporijo, could not have passed the impugned orders mentioned above, which did not restrict to the determination of the illegal occupant of the public premises alone, but have gone on to determine the rights of the parties with regard to the land, in question. The ADC-cum-Estate Officer and the Deputy Commissioner, therefore, have exceeded their jurisdiction in passing the impugned orders.

**8.** In that view of the matter, the impugned order, dated 22.02.2012, passed by the Addl. Deputy Commissioner-cum-Estate Officer, Upper Subansiri District, Daporijo, vide Memo. No. LM/DRJ-221/2011-12 as well as the order dated 07.10.2013, passed by the Deputy Commissioner, Upper Subansiri District, Daporijo, vide No. LM/DRJ-221/2011-12, cannot be sustained and the same are hereby set aside and quashed.

**9.** The writ petition stands **disposed of** in terms of above.

**10.** There shall be no order as to cost.

**JUDGE**

*Pura*