
(1995) 08 GAU CK 0015

In the Gauhati High Court

Case No : Civil Rule No. 2844, 2867, 2982 of 1993

Gobin Chandra Gohain

APPELLANT

Vs

State of Arunachal Pradesh

RESPONDENT

Date of Decision : 24-08-1995

Acts Referred:

Constitution of India, 1950 — Article 226, 226

Citation : (1995) 2 GLJ 34

Hon'ble Judges : J.N.Sarma, J

Bench : Single Bench

Advocate : K.K.Nandi, H.Talukdar, B.R.Dey, Advocates appearing for Parties

Judgement

1. Civil Rule No.2844 of 1993 has been filed by 13 persons with a prayer to restore the possession of the land from which they have been evicted in New Colony Rampur in Naharlagun as per Annexure I and for disposal of the representation (Annexure IV to the writ application).

2. Civil Rule No. 2867 of 1993 has been filed by seven persons and the prayers made therein are same as in the other Civil Rules.

3. Civil Rule No.2982 of 1993 has been filed by 45 persons. Similar is the prayer made in the other Civil Rules.

4. The basic facts are that all these petitioners were allotted land by the Circle Officer, Naharlagun, Arunachal Pradesh and it also appears that some amount of revenue being Rs.4,000/ have been received from these petitioners in the year 1989. It is not known from the writ applications whether subsequent to it money was received by the authority for the occupation of these land by the petitioners. It further appears that these petitioners were given different trade licences as well as right to vote in the election. Ultimately on 14.5.92 at 6 AM all the structures raised by the petitioners on the land allotted to them were demolished by the authority with the police help without any notice or without following the due process of law.

5. By now the law is well settled that even in order to throw out a trespasser from a plot of land, the authority is duty bound to comply with the minimum requirement of natural justice, but that was not done in the instant case. Accordingly, on the authority of the following three cases I find that the action of the authority in throwing out the petitioners" from their possession of the land are illegal (see (1983) 1 GLR 505; (1985) 3 SCC 545; AIR 1992 SC 789).

6. The next question which comes up for consideration is that how far I can grant restoration of possession. It is absolutely difficult to identify the land. There is no specific particulars regarding the land stated to be in their possession. This Court cannot pass a vague order of restoration and as such it is not possible for me to pass such order as prayed for in these writ applications inasmuch as even if the order of restoration is passed, the authority shall not be in a position to comply with the order in the absence of the specific particulars and/or proper identification of the land. Accordingly this prayer shall stand rejected.

7. The next question which will come is that whether I should give a direction to authority to consider the representation submitted by the petitioners.

This prayer is absolutely a reasonable prayer and accordingly I direct the respondents 1, 2 and 3 to dispose of the representation (Annexure IV to the writ application) within a period of 3 (three) months from the date of receipt of the order. The petitioners may file a fresh representation before the authority and the authority at the time of disposal of the representation shall look to two aspects to the matter (1) whether some alternative arrangement can be made for giving benefit of settlement to these petitioners considering the genuineness of each and every individual claim; (2) whether some amount of compensation should be given to these petitioners for the unauthorised demolition of their structures and houses and what will be the amount of compensation in each and every individual cases that is left to the decision of the authority.

8. With this observation and direction, these writ applications shall stand disposed of. The petitioners shall submit the necessary documents before the authority for the scrutiny of the same by the authority. Regarding compensation the petitioners shall file necessary documents available with them. A copy of the representation as well as the documents shall be submitted before the authority within 2 (two) months from today.

9. This disposes of these writ applications.