
(2014) 10 MAN CK 0002
In the Manipur High Court
Case No : W.P. (C). No. 981 of 2004

K. Peter

APPELLANT

Vs

The State of Manipur

RESPONDENT

Date of Decision : 14-10-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 4

Citation : AIR 2015 Manipur 8 : (2014) 5 GLT 200

Hon'ble Judges : N. Kotiswar Singh, J

Bench : Single Bench

Advocate : R.K. Nokulsana, Sr. Advocate and Y. Sanajaoba, Advocate for the Appellant; S. Rupachandra, ASG and Ch. Sundari, G.A, Advocate for the Respondent

Judgement

N. Kotiswar Singh, J.—Heard Mr. R.K. Nokulsana, learned senior counsel for the petitioners as well as Mr. S. Rupachandra, learned ASG and Ms. Ch. Sundari, learned G.A. for the respondents.

2. The present writ petition has been filed by 2 (two) petitioners claiming to be owners of certain land called "Thangkang Kamei land" at Noney village in Tamenglong District, Manipur which is stated to have been occupied by the Assam Rifles, and claiming compensation for the said land.

3. According to the petitioners, the forefathers of the petitioners had reclaimed a vast area of land at Noney village within Nungba Sub-Division, Tamenglong District and started cultivation for their livelihood since year 1938 as allowed by the authorities as evident from the order dated 31.08.1938 of the Court of Sub-Divisional Officer, West Tamenglong in Misc. Matter No. 138 of 1937-38. The petitioners claim that by virtue of long occupation of the said land, the forefathers of the petitioners had become the owners of the said land. The petitioners also claimed that some years before the filing of the petition, there was a proposal from the State Government for use of a portion of the said land for establishment of "Livestock Composite-Firm" by the Veterinary Department,

Government of Manipur, on the understanding that due compensation will be given and suitable employment will also be given to the members of the petitioners' land. The petitioners contended that even though the Veterinary Department, Government of Manipur occupied the land measuring 115 acres, neither compensation nor employment was given in spite of the agreement entered between the petitioner No. 1 on behalf of the Thangkang Kamei Clan and the Government of Manipur. Being aggrieved, the petitioner No. 1 filed a writ petition, being Civil Rule No. 605 of 1990 before the Gauhati High Court which was disposed of by the Gauhati High Court on 13.02.1990 directing the State respondents to consider the representation submitted by the petitioner for payment of compensation. According to the petitioners, in spite of the direction of the Gauhati High Court, no compensation was paid and it has been stated that after occupation of the said land by the Veterinary Department, the land has been forcibly occupied by the Assam Rifles without obtaining any formal order from the State of Manipur or taking permission from the petitioners or the Thangkang Kamei Clan. According to the petitioners, several representations were submitted to the authorities for payment of compensation of the land being occupied earlier by the Veterinary Department and now by the Assam Rifles. The petitioners claim that this forcible occupation of the land has deprived the petitioners and their Clan members from enjoying the benefits arising out of the said land and accordingly have approached this Court by filing writ petition for directing the respondents to pay adequate compensation to the petitioners for the lands stated to have been occupied by the Assam Rifles.

4. The Respondents have contested this writ petition by filing affidavit-in-opposition.

In the affidavit-in-opposition filed on behalf of the Assam Rifles authorities, it has been submitted that the said land was earlier occupied by Gorkha Regiment and subsequently by the Assam Rifles, after the same was vacated by the said Regiment, and, accordingly, denied the allegation of forcible occupation of the same. It has been also contended that the Assam Rifles have been deployed in the State of Manipur for counter-insurgency operations and lands are to be made available to the Assam Rifles free of cost by the State authorities. It has been also contended that petitioners do not have no title over the land claimed by them and accordingly have disputed the petitioners' title over the said land.

5. The State respondents have also filed their affidavit-in-oppositions. In their affidavit-in-opposition, it has been stated that the petitioners are mere permissive processors of the land and they have no right/title over the land. It has been stated that earlier a land measuring about 300 acres at Noney was allotted by the Deputy Commissioner, Tamenglong for establishment of Composite Farm which has now been occupied by the Assam Rifles and the petitioners have no right to claim compensation over the said land. Further, there was no agreement with any of the villagers for payment of compensation of the said land.

6. Heard learned counsel for the parties and perused the records.

Mr. R.K. Nokulsana, learned senior counsel appearing for the petitioners submits that it cannot be denied that the petitioners are the owners of the said land. It has been contended that the forefathers of the petitioners had been allowed by the authorities to raise cultivation over the said land by reclaiming it, vide order dated 31.03.1938 passed by the Court of Sub-Divisional Officer, West Tamenglong in Misc. Matter No. 138 of 1937-38, a part of which has been occupied by the Assam Rifles. It has been also submitted that the father of the petitioner No. 1 as well as the father of the petitioner No. 2 had executed a deed of declaration before the Sub-Registrar, Tamenglong Central Sub-Division on 10.05.2008 in respect of 115 acres of land, which would conclusively establish their title over the land. Furthermore, it has been submitted that the authorities themselves did not question the ownership of the petitioners over the land as evident from the letter dated 10.02.2004 written by the Director of Vety. & A.H. Services, Manipur to the Commissioner (Vety/AH), Government of Manipur (Annexure-A/5). In the said letter dated 10.02.2004, it has been clearly mentioned that the land belongs to the Thangkang Kamei Clan who had filed representations for payment of compensation of the land which was allotted to the Veterinary Department for establishment of "Composite Livestock Firm" and later forcibly occupied by the Assam Rifles. It has been also submitted that the Revenue Department had initiated the proceeding for land acquisition by issuing notice under Section 4 of the Land Acquisition Act, 1894 for acquiring 200 acres of land for the use of Assam Rifles (Annexure A/8) which would indicate that this is not a Government land but a private land belonging to the petitioners. The petitioner had also referred to a letter dated 3.12.2009 written by the Commandant, 26 Assam Rifles to the higher authorities of Assam Rifles (Annexure A/14) for payment of compensation to the petitioners for the land occupied by the Assam Rifles. The learned senior counsel had also referred to a letter dated 11.03.1988 written by the petitioner No. 1 to the Secretary/Director (Veterinary and Animal Husbandry), Government of Manipur clarifying that he was initially misinformed and pressurised by the Chairman, Secretary, Village Authority of Noney to offer an area of 115 acres of land for the Composite Livestock farm at Noney and also had claimed that the said land belonging to the petitioner No. 1 had been found to be surreptitiously allotted by the Deputy Commissioner to the Veterinary Department. The petitioners have also referred to the letter dated 5.02.1991 written by the Deputy Commissioner, Tamenglong (Annexure A/17) to the counsel for the petitioners informing that the matter is being looked into and the necessary acquisition proceeding be taken up for payment of compensation to the claimants. Another order dated 10.04.2003 (Annexure-A/18) issued by the Deputy Commissioner (L.A.) Tamenglong has been referred to which shows that 200 acres of land would be required to be acquired for the location of the Assam Rifles Battalion Headquarters. Another letter dated 9.07.2003 written by the Deputy Commissioner (Land Acquisition) Tamenglong (Annexure A/19) regarding cooperation extended by the land

owners for acquisition of 150 acres of land for use by the Assam Rifles had been relied upon to show that the land is not a Government land but belonging to the petitioners. Mr. R.K. Nokulsana, the learned senior counsel has, therefore, strenuously contended that since the land under occupation by the Assam Rifles is not a Government land but belongs to the petitioners as evident from the various orders and documents mentioned above, the State authorities are under bounden duty to pay compensation for the land so occupied by the Assam Rifles. Learned senior counsel has also drawn attention of the Court to the land ownership certificate dated 9.03.2012 issued by the Longmai Village Authority in favour of the petitioners to prove the title of the petitioners over the land.

7. Mr. S. Rupachandra, learned ASG as well as Ms. Ch. Sundari, learned G.A. have, however, vehemently objected to the claim of the petitioners on the ground that the petitioners have failed to establish that they are the owners of the land in question and in absence of clear title over the land in favour of the petitioners, no writ can be issued for payment of compensation to the petitioners. Mr. S. Rupachandra has also submitted that a Division Bench of this Court in Writ Appeal No. 59 of 2011 (Union of India -vs- S. Shangreikhai) and Writ Appeal No. 42 of 2013 (State of Manipur -vs- S. Shangreikhai) had considered similar claim for payment of compensation in respect of land in the hill areas occupied by the security forces which had been used by the civilians, which had not been allowed by this Court on the ground that the petitioners had failed to establish their title. Relevant portions of the aforesaid common order dated 12.05.2014 passed by this Court in Writ Appeal No. 59 of 2011 (Union of India -vs- S. Shangreikhai) and Writ appeal No. 42 of 2013 (State of Manipur -vs- S. Shangreikhai) are reproduced herein below:

"[11] We are afraid that in absence of any Rule/Circular/Administrative instructions the Headman of a village is not competent to either allot land or give a declaration that a particular person belonging to a particular tribe is the owner of any land. The Non Encumbrance Certificate issued by the SDO also does not speak of title over the property. Since a specific stand was taken by the appellants in both the appeals that in absence of any document of title no compensation could be paid, the learned single Judge should have answered the said objection in the impugned judgment. From the impugned judgment, we find that there is no direct answer to the said objection raised by the appellants, but at the same time it appears the learned single Judge had relied upon certain reports submitted by the DC/Ukhrul in his letter dt. 5.6.2008 stating that all the private respondents are genuine owners of the paddy fields. The DC/Ukhrul could only say as to whether the private respondents were in possession of the land alleged to be under their occupation or not, but could have given an opinion that the private respondents are the owners of their respective lands in absence of any document of title.

[12] In view of the fact that none of the private respondents has been able to produce any document in proof of title, compensation cannot be paid to them so

long as they do not prove title over the lands under their possession.

So far as assessment of loss in terms of the agriculture and pisciculture is concerned, we find that both the reports have been prepared by the officers of the concerned Department after an enquiry at the spot and there is no reason for this Court to discard the assessment made by them. However, such compensation can only be paid provided the private respondents establish their title over the land under their occupation. We, therefore, dispose of both the appeals by modifying the judgment & order of the learned single Judge to the following extent:

The compensation as assessed by the Agriculture and Pisciculture Departments shall be paid to the private respondents in accordance with the extent of land under their occupation provided they produce document(s) in support of their title over the land under their possession. The private respondents may obtain such document either from the officer competent to declare such title or by way of obtaining a decree from the competent civil Court. Only on production of document in proof of title, the respondents shall be paid compensation according to the extent of lands under their occupation and loss sustained by them.

8. Learned counsels for the respondents have stated that there is no document to show that the said land belongs to the petitioners. They have also contended that the so called deed of declaration executed on 10.05.2008 is also not a legally valid document in as much as one of the declarants was a deceased person, namely, late Shri Kaphunjei Kamei, father of the petitioner No. 1. Accordingly, it has been submitted that the said declaration is invalid and cannot be acted upon.

9. After hearing the learned counsel for the parties and on consideration of the materials on record, the crux of the issue seems to be related to payment of compensation of the land stated to have been occupied by the Assam Rifles which the petitioners claim to be theirs. Though it is true as contended by Mr. R.K. Nokulsana, learned senior counsel for the petitioners that the provisions of Manipur Land Revenue and Reforms Act, 1960 are not applicable in hill areas of Manipur because of which no pattas or Jamabandis are issued to land owners to show title over the land, yet nothing has been brought to the notice of this Court of the existence of any rule, regulation or enactment to show that the land ownership certificate issued by the village authority or deed of declaration executed before the Sub Registrar, Tamenglong Central Sub-Division, Tamenglong District would constitute valid documents to show title over the land. It may be also observed that the land ownership certificate issued by the Longmai Village Authority on 9.03.2012 in favour of the petitioners only mentions that the land known as "Thangkang Kamei land" which is now occupied by the Assam Rifles had been under exclusive possession and enjoyment of the forefathers of the petitioners and after their death, the petitioners have become the rightful owners of the said land. This certificate, at best, shows that the land had been under possession and enjoyment of the forefathers of the petitioners

without showing how they have become the real owners of the said land. Therefore, the contention of the State respondents that the forefathers had mere possessory right over the said land cannot be ruled out and can not be said to be a valid proof of title. Further, a perusal of the "Declaration Deed" executed before the Sub Registrar, Tamenglong Central Sub-Division, Tamenglong District on 10.05.2008 would show that the declaration was made by the purported owners of the land without indicating as to how they had become owners of the land. Merely by executing a deed of declaration containing the self proclamation that they are the owners of the land does not endow them with the legal status of owners over the land. It is to be also noted that the various letters written by the authorities like the Director of Veterinary (Annexure A/5), Notification u/s. 4 of the Land Acquisition Act, 1894 (Annexure A/8), letter dated 3.12.2009 of the Commandant of 26 Assam Rifles (A/14), letters of the Deputy Commissioner (Annexure A/17, Annexure A/18) etc. cannot be said to be documents conferring title over the land in issue. As mentioned above, the State respondents have denied that petitioners are the owners of the land and contended that their forefathers were mere permissive possessors and as such, it is clear that there is a serious dispute over the ownership of the land, and only on positive establishment of it would endow the petitioners the right to claim compensation.

Therefore, this Court is of the view that since the petitioners have failed to establish their title over the land in issue, no writ can be issued for directing the respondents to pay compensation to the petitioners. However, it is clarified that, if at all, the petitioners are able to prove through legal process or by any valid document establishing their title over the land, they would certainly be entitled to compensation for the said land. Accordingly, for the reasons discussed above and with the above observation, the present petition is dismissed.