
(2019) 12 MAN CK 0006
In the Manipur High Court
Case No : Writ Petition (c) No. 99 Of 2019

Khundrakpam Sarat Singh

APPELLANT

Vs

State Of Manipur And Others

RESPONDENT

Date of Decision : 19-12-2019

Acts Referred:

Constitution Of India, 1950 — Article 226
Manipur Land Revenue And Land Reform (Allotment Of Land) Rules, 1962 — Rule 11, 18
Manipur Land Revenue And Land Reforms Act, 1960 — Section 14(2)

Citation : (2019) 12 MAN CK 0006

Hon'ble Judges : M.V. Muralidaran, J

Bench : Single Bench

Advocate : A. Jagjit, H. Devendra, H. Prabirkumar

Final Decision : Dismissed

Judgement

MV Muralidaran, J

[1] Heard Mr. A. Jagjit, learned counsel appears for the petitioner and Mr. H. Devendra, learned counsel for respondent Nos. 1,2&3; and Mr. H. Prabirkumar, learned counsel for the respondent No.4.

[2] The petitioner has filed the present writ petition with the following prayer:

"(i) to issue rule to the respondents and after return of notice the rule be made absolute.

(ii) to direct the respondents to leave apart an area measuring 1.16 acres under C.S. Dag No.1199 belonging to Kh.Sarat Singh out of the total area measuring 3.43 acres covered by C.S. Dag No.1199 in the impugned allotment order.

(iii) in the interim to maintain status quo of the land measuring an area of 1.16 acre now occupied by the writ petitioner under C.S. Dag No.1199 out of the total area of 3.43 acres covered by the same Dag of Viilage No.12, Pangei as on today

pending disposal of the writ petition.

(iv) to pass such order/direction which this Hon'ble Court may deem fit and proper for the end of justice and equity.

[3]. The facts in a nutshell are as follows:- The Government of Manipur, accorded allotment of an area measuring an extent of 1.16 acres in C.S. Dag No.1199 situated at Village No.12, Pangei, Imphal East- North, in favour of the petitioner on 05.3.1976. Subsequent to the allotment order, necessary premium amounting to Rs.514.80 was paid to the State Government on 15.3.1976 as per Clause 3 of the allotment order and also under Rule 11 of the Manipur Land Revenue and Land Reform (Allotment of Land) Rules, 1962. Pursuant to the allotment order, on 10.3.1977, a deed of allotment was executed between the petitioner and the Deputy Commissioner (Central), Manipur.

[4]. After execution of the allotment deed and after completion of other formalities, the petitioner has taken possession of the land formally and had started developing the land as agricultural land by doing cultivation and such other allied activities. Since then the said land under C.S. Dag No.1199 measuring an extent of 1.16 acres out of total area of 3.43 acres has been in absolute possession and enjoyment of the petitioner without any hindrances.

[5]. The petitioner approached the Revenue officials for causing necessary entry of his name in the record of rights, however, the request of the petitioner was not accepted on the ground that no official record could be traced out in the Revenue Department for doing the needful. The Revenue Officials stated that relevant files must have been destroyed due to fire in the year 1989 which engulfed all the official records that had been kept in the Deputy Commissioner's Office complex at Lamphelpat.

[6]. It is stated that the non-entry of his name in the record of rights cannot take away the petitioner's rightful claim of ownership and entitlement to the land allotted in his favour by the Government without cancelling or otherwise nullifying the same. The petitioner came to understand that there was a proposal from Secretary Law, Government of Manipur, for allotment of land for construction of Manipur Judicial Academy and the said proposal was accepted by the State Government. Out of the proposed plan "A" and "B" as suggested by the SDO, Sawombung, the State Government, vide its letter dated 6.10.2011, agreed plan "A" i.e., the land covered by C.S. Dag Nos.1267 and 1263 altogether measuring 11.56 acres.

[7]. On 24.9.2014, the SDO, Sawombung, submitted a letter giving a detailed report of Dag No.1267 and 1263 along with Dag Chitha, trace map and other informations in respect of other surrounding lands, including the land allotted to the petitioner under C.S. Dag No.1199 which has neither been proposed, nor earmarked by any other authorities in the corresponding communications so far made in connection with the proposed allotment of land in favour of the Secretary (Law), Government of Manipur for the purpose of construction of

Manipur Judicial Academy.

[8]. Thereafter, the petitioner has submitted an application for recording his name as pattadar. Pursuant to the said application, the circle Mandol, office of SDC, Sagolmang, has conducted inquiry and the inquiry report has been submitted to the SDC with necessary recommendation from the supervisor Kununggo, affirming that the petitioner has been occupying the said land for the last 40 years and there has not been any objection from local authority with a further request to enter his name in the computer in respect of C.S. Dag No.1199 (part) having an extent of 1.16 acres, Angan Phou out of 3.43 acres.

[9]. The petitioner came to know that the Deputy Commissioner (Revenue) has issued the impugned order dated 26.11.2014 allotting 19.25 acres of land for construction of Manipur Judicial Academy in favour of Secretary Law, Government of Manipur. While issuing the said allotment order, the land owned by the petitioner was re-allotted in favour of the Secretary Law without giving any opportunity of being heard to him and also without cancelling the earlier allotment order issued in his favour. By issuing the impugned allotment order dated 26.11.2014, the rightful claim to the ownership and such other entitlement bestowed upon the petitioner has been abruptly taken away.

[10]. It is averred that the petitioner is aggrieved by the impugned allotment order with regard to the inclusion of his agricultural land measuring an area of 1.16 acres under C.S. Dag No.1199. Without affording an opportunity of being heard and also without cancelling the allotment order in favour of the petitioner, the impugned allotment order came to be issued. In this regard, on 28.12.2016, the petitioner has submitted a representation and the same is still pending for consideration before the authority concerned. Hence, the petitioner approached this Court by filing the present writ petition with the aforesaid prayer.

[11]. Denying the averments in the petition, the first respondent filed affidavit-in-opposition stating that there are no records/documents declaring that the petitioner is the owner in possession of the land under C.S. Dag No.1199 measuring an area of 1.16 acres and in the case of declaration of title/ownership, a Civil Court has to decide it. It is stated that the petitioner has no right or title over the said and he has no locus standi to file the present writ petition.

[12]. Respondent No.2 filed affidavit-in-opposition stating that the land covered by C.S. Dag No.1199 measuring an area of 3.43 acres was found recorded as State land in the land records maintained in the office of the Sub-Deputy Collector, Sagolmang, prior to the allotment of the land to the Manipur Judicial Academy, Manipur. It is stated that the present writ petition is not maintainable, as the Writ Court is not the appropriate forum to decide the fact which is under dispute.

[13]. Respondent No.3 filed affidavit-in-opposition stating that in the land records, C.S. Dag No.1199 has been recorded as State Khas land prior to the allotment for construction of Manipur Judicial Academy and the writ petitioner

has no right or authority to claim ownership over the said land. In the case of claiming title over the said land, the same should be decided by a competent Civil Court of law.

[14]. Adopting the stand taken by respondent No.1, respondent No.4/Registrar General of Manipur High Court filed affidavit-in-opposition stating that the petitioner has not been able to record his name in the relevant land records as owner of the disputed land even after more than forty three years from the date of the alleged allotment and the genuineness of the allotment order dated 5.3.1976 in favour of the petitioner is doubtful and such question of fact cannot be decided in the present writ petition. It is further stated that allotment of land measuring 19.25 acres for construction of Manipur Judicial Academy under the impugned allotment order dated 26.11.2014 is absolutely necessary in public interest. Moreover, under the proposal of Department of Justice to 14th Finance Commission Report, a Sum of Rs.26.05 Crores has been earmarked, out of which a sum of Rs.25 Crores has been allotted for construction of Manipur Judicial Academy. The claim raised by the petitioner in the present writ petition should not stand in the way of establishing State Judicial Academy in Manipur, which is in larger public interest.

[15]. Assailing the order of impugned allotment dated 26.11.2014 in favour of Manipur Judicial Academy, the learned counsel for the petitioner submitted that without cancelling the earlier allotment order dated 5.3.1976 in favour of the petitioner in respect of the land to an extent of 1.16 acres in C.S. Dag No.1199, the State Government allotted the said piece of land in favour of Secretary (Law) for construction of Manipur Judicial Academy and that the impugned allotment order not only taken away the rights, privileges, legal entitlement and ownership of the petitioner over the said land, but also deprived him of his property unconstitutionally, without giving an opportunity of being heard in gross violation of the established principles of law.

[16]. The learned counsel for the petitioner further submitted that the respondents cannot take a different stand to the existence of allotment order and also possession of the said land by the petitioner. In fact, vide a letter dated 19.9.2018, the respondent authorities have endorsed the allotment in favour of the petitioner and further acknowledged that the petitioner was in possession of the said land and also related land revenue was realised from the petitioner for several years. Therefore, it cannot be said that the petitioner is not a bona fide allottee of the land measuring an area of 1.16 acres situated at Village No.12, Pangei in C.S. Dag No.1199.

[17]. Per contra, the learned counsel for the respondent State submitted that the land under Dag No.1199 measuring an extent of 3.43 acres was recorded as State land and therefore, it is not necessary for giving an opportunity to the petitioner before allotting the said piece of land in favour of the Secretary (Law). Further, there is no document to show that the petitioner is the owner in possession of the land under C.S. Dag No.1199 measuring an extent of 1.16

acres. Since the land in question is a Government land, the Government had allotted the same for construction of Manipur Judicial Academy and therefore, the petitioner has no right to question the impugned allotment.

[18]. Supporting the stand taken by the learned counsel for the respondent State, the learned counsel for respondent No.4 submitted that the petitioner was not able to record his name in the relevant land records as owner of the land in question after more than forty years from the date of the alleged allotment. Moreover, the genuineness of the allotment order dated 05.3.1976 in favour of the petitioner is doubtful and such question of fact cannot be decided in the writ proceedings. He would submit that taking into consideration the public interest, land measuring an extent of 19.25 acres was allotted by the Government for construction of Manipur Judicial Academy under the impugned allotment order dated 26.11.2014 and therefore, the petitioner has no right to question the impugned allotment order.

[19]. I have considered the submissions made by the learned counsel appearing on either side and also perused the materials available on record.

[20]. The grievance of the petitioner is that the second respondent/Deputy Commissioner (Revenue) allotted land measuring an extent 19.25 acres under various Dag Nos., which includes an extent of 1.16 acres in C.S. Dag No.1199, in favour of the Secretary (Law), Government of Manipur for the purpose of construction of Manipur Judicial Academy by way of the impugned allotment order dated 26.11.2014, without cancelling the earlier allotment order dated 05.3.1976 in favour of the petitioner and the aforesaid act of the second respondent had not only taken away the rights and ownership of the petitioner over the said land, but also deprived him of his property unconstitutionally without giving an opportunity of being heard, which is in gross violation of the well settled principles of law.

[21]. On the other hand, it is the say of the respondent authorities that no record was available qua according approval by the Government for allotment of land measuring 1.16 acres covered by C.S. Dag No.1199 in favour of the petitioner. The further plea of the respondent authorities is that there were certain stages in the allotment process viz., proposal for allotment, acceptance of the proposal, issue of allotment order, fixation of premium and payment of premium, deed of allotment, delivery of possession, entry into the record of rights and preparation of patta/jamabandi etc. Unless these formalities were completed, the allottee cannot claim to be owner of the land and the land in question is still recorded as Khas land.

[22]. The basis for filing the writ petition by the petitioner is the allotment order dated 05.3.1976, whereby an extent of 1.16 acres in Dag No.1199 was allotted to him, subject to the condition that the allottee shall pay premium of Rs.514.80. According to the petitioner, the said premium amount has been paid on 15.3.1976 and he has also produced receipt for the same along with the writ

petition. Subsequently, deed of allotment in respect of the said land in Dag No.1199 to an extent of 1.16 acre was executed on 10.3.1977 between the Deputy Commissioner, Manipur and the Petitioner.

[23]. It appears that except the order of allotment, receipt for payment of premium amount and deed of allotment, nothing has been produced by the petitioner to show that still the land in dispute stood in the name of the petitioner. There is nothing on record to show that the petitioner has paid land revenue for the land allotted to him till the date of filing of the writ petition.

[24]. It is the say of the petitioner that when he approached the Revenue officials for causing necessary entry of his name in the record of rights, his request was not considered by the revenue officials stating that no official record could be traced out in the Revenue Department for doing entry. The Revenue Officials further stated that relevant files must have been destroyed due to fire in the year 1989 which engulfed all the official records that had been kept in the Deputy Commissioner's Office complex at Lamphelpat. The said plea of the petitioner is not supported by any documents. Anyhow, the destruction of records and the alleged fire have not been disputed by the respondent authorities. Moreover, the said issue is not matter to be considered in this petition.

[25]. The specific plea of the petitioner is that he is in peaceful possession of the allotted land uninterruptedly for the last so many years. No adangal has been produced by the petitioner to show his possession till the date of filing of the writ petition. However, the petitioner has relied upon the letter dated 15.10.2014 addressed by the Circle Mondol, Office of the SDC, Sagolmang, Imphal East to the Sub-Deputy Collector, Sagolmang, Imphal East, wherein it has been stated that the petitioner has been occupying the land in C.S. Dag No.1199 (Part) having an area of 1.16 acres.

[26]. On the other hand, by the impugned allotment order dated 26.11.2014, the Deputy Secretary (Revenue), Government of Manipur, in exercise of powers conferred under Section 14(2) of the MLR & LR Act, 1960 read with Rule 18 of the Manipur Land Revenue and Land Reforms (Allotment of Land) Rules, 1962, was pleased to allot an extent of 19.25 acres, which include 3.43 acres in C.S. Dag No.1199 for construction of Manipur Judicial Academy. Subsequent to the impugned allotment order in favour of the Secretary (Law), Government of Manipur, on 28.01.2016, the petitioner submitted a representation to the respondent authorities stating that the land which had been allotted by the competent authority in his favour in the year 1976 and also having executed necessary agreement, was re-allotted in favour of Secretary (Law), Government of Manipur for the purpose of construction of Manipur Judicial Academy without giving any opportunity and also without cancelling his allotment order dated 05.3.1976. This representation, according to the petitioner, has not been considered by the respondent authorities.

[27]. Since the petitioner claims right over the land in C.S. Dag No.1199 measuring an extent of 1.16 acres by way of allotment effected in the year 1976, which was denied by the respondent authorities contending that totally 19.25 acres, which include the land in question, was allotted in favour of the Secretary (Law), Government of Manipur for construction of Manipur Judicial Academy, this Court finds that there exists land dispute between the petitioner and the respondent authorities qua the land in question i.e., 1.16 acres in C.S. Dag No.1199, which cannot be decided in writ jurisdiction. The dispute between the parties, at best, could be tried and decided before a Civil Court, based on evidence adduced - both oral and documentary.

[28]. It is reiterated that the present writ petition has been filed by the petitioner in respect of the land measuring an extent of 1.16 acres in C.S. Dag No.1199 out of the total extent of 3.43 acres. Both the parties admit that there was allotment of the land in favour of them. No patta or possession certificate has been filed by the petitioner in respect of the land measuring an extent of 1.16 acres in C.S. Dag No.1199 to establish his right over the said piece of land. Moreover, except the enquiry report, no other documents have been produced by the petitioner to show that he is in exclusive possession of the land in question.

[29]. It is also the case of both parties that all the revenue documents pertaining to the land in question have been destroyed due to fire in 1989. As stated supra, the allotment and possession alleged by the petitioner and his entitlement of the land in question can be decided only before the Civil Court. It is the Civil Court which has to adjudicate the question as to whether the person claiming right and title is the title holder of the land.

[30]. In a petition under Article 226 of the Constitution of India, the question of title regarding immovable property cannot properly be gone into, because a mass evidence may be required for adjudicating the question of title. Therefore, this Court is of the view that the question of title has to be decided by the Civil Court only. Albeit there is no absolute bar on entertaining a writ petition involving disputed questions of fact, the writ Court would not normally do so in exercise of its discretion. This is because the procedure followed by the writ Court is not apposite for the purpose of deciding disputed questions of fact. Generally, a detailed trial involving witness action is required for deciding disputed questions of fact for which a Civil Court is the appropriate forum.

[31] In *Swati Ferro Alloys Private Limited v. Orissa Industrial Infrastructure Development Corporation (IDCO) and others*, reported in (2015) 4 SCC 204, the Hon'ble Supreme Court held:

16. From the bare pleading of the case and the record, we find that there is disputed question of fact about the ownership of Plot No.C/9, Industrial Estate, Cuttack. Therefore, the High Court was justified in dismissing the same and directing the parties to approach the civil court for resolving such dispute."

[32]. In the instant case there is disputed question of fact qua right, title and

possession of the land to an extent of 1.16 acres in C.S. Dag No.1199 and the said dispute, as stated supra, cannot be resolved in the present writ petition. Hence, this Court is not inclined to interfere with the allotment order in favour of the Secretary (Law), Government of Manipur for construction of Manipur Judicial Academy challenged in the writ petition. However, this Court makes it clear that in the event a suit for declaration of title and for appropriate consequential relief is filed by the petitioner, the Civil Court shall decide such a suit, without reference to this order, but only on the basis of the pleadings of the parties and evidence adduced by them before it. It is made clear that this Court has not decided the right, title and/or possession over the land in question in favour of any one of the parties. It is also made clear that any opinion expressed by this Court in this order will not preclude the Civil Court in deciding the suit to be instituted by the petitioner.

[33]. With the aforesaid observations and liberty, the writ petition is dismissed. No costs.