

(1974) 02 GAU CK 0003
In the Gauhati High Court
Case No : Civil Rule No. 1 of 1972

Khwairakpam Ibomcha Singh and others APPELLANT
Vs
Md. Abdul Bari and others RESPONDENT

Date of Decision : 08-02-1974

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Manipur Land Revenue and Land Reforms Act, 1960 — Section 95

Citation : AIR 1975 Guw 42

Hon'ble Judges : D. Pathak, J; Baharul Islam, J

Bench : Division Bench

Advocate : A. Nilamani Singh, for the Appellant; Th. Privananda Singh for Nos. 1-4 and Th. Munindra Kumar Sineh, Asst. Govt. Advocate for Nos. 5, 6 and 7, for the Respondent

Final Decision : Allowed

Judgement

Baharul Islam, J.—This application under Articles 226 and 227 of the Constitution of India is directed against the order dated 9-9-1971 passed by the Lt. Governor ("Administrator) of Manipur (Respondent No. 71.

2. The facts in brief are these: Certain Government land was settled by the Deputy Commissioner with the petitioners. The respondents Nos. 1 to 4 also set up their claim to the said land. Being aggrieved by the order of settlement passed by the Deputy Commissioner, respondents Nos. 1 to 4 filed an application for review before the Deputy Commissioner, who, by his order dated 11-12-1970 rejected the application on the ground of limitation. The respondents Nos. 1 to 4 then filed an application for revision before respondent No. 7 against the order dated 11-12-1970 of the Deputy Commissioner, and respondent No. 7, by his impugned order dated 9-9-1971 set aside the original order of settlement passed by the Deputy Commissioner in favour of the petitioners.

3. Shri A. Nilamani Singh, learned counsel appearing for the petitioners, submits that the impugned order of revision passed by respondent No. 7 is invalid as no

notice of the revision of the original order of settlement was served on the petitioners under proviso to Section 95 of the Manipur Land Revenue and Land Reforms Act, 1960 (hereinafter called the Act). Section 95 of the Act provides:

The Administrator or the deputy commissioner may at any time, either on his own motion or on the application of any party, call for the records of any proceedings before any revenue officer subordinate to him for the purpose of satisfying himself as to the legality or the propriety of any order passed by such revenue officer, and may pass such order in reference thereto as he thinks fit:

Provided that he shall not vary or reverse any order affecting any right between private persons without having given to the parties interested notice to appear and be heard.

4. u/s 95 of the Act the Administrator or the Deputy Commissioner, as the case may be may revise an order on his own motion or on an application of a party. In the instant case, the application for revision was made by respondents Nos. 1 to 4 but the application was made against the order of the Deputy Commissioner rejecting the application for review, and not against the order of settlement made in favour of the petitioners. It is admitted that notices of the said application for revision were served on the petitioners. The respondent No. 7 also has power suo motu to revise u/s 95 the order of settlement passed by the Deputy Commissioner in favour of the petitioners. But, in that case, if he varies or reverses the order, the party affected thereby has a right to a notice before such revision.

Proviso to Section 95 is mandatory and as such, the affected party has a right to receive a notice, and in the absence thereof the order of revision passed by respondent No. 7 must be held to be invalid being in violation of the proviso to S. 95 .

5. Shri Priyananda Singh, learned counsel for the respondents Nos. 1 to 4 submits that in their application for revision the allegations were also made against the order of settlement made by the Deputy Commissioner. We have ourselves examined the application. We find that the application was directed against the order of the Deputy Commissioner refusing to review the order of settlement. This submission, therefore has no substance.

6. In the result, in exercise of our powers under Article 226 of the Constitution we quash the impugned order (Annexure A/11 dated 9-9-1971 passed by the respondent No. 7 and direct respondent No 7 to revise the order of settlement if he so thinks fit, after giving due notice to the present petitioners. The application is allowed. The rule is made absolute. But in the circumstances, we leave the parties to bear their own costs.

D. Pathak, J.

I agree.

Revision allowed.