
(2014) 11 MEG CK 0006
In the Meghalaya High Court
Case No : Writ Petition (Civil) No. 355/2014

Liticia Momin

APPELLANT

Vs

The State of Meghalaya

RESPONDENT

Date of Decision : 11-11-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 6

Meghalaya Public Premises (Eviction of Unauthorised Occupants) Act, 1980 — Section 4

Citation : (2014) 11 MEG CK 0006

Hon'ble Judges : T. Nandakumar Singh, J

Bench : Single Bench

Judgement

T. Nandakumar Singh, J.—Heard Mr. AS Siddiqui, learned counsel for the petitioner and Mr. ND Chullai, learned Sr. GA assisted by Mr. KP Bhattacharjee, learned GA appearing for the State respondents.

2. Taking into consideration of the prayer sought for in the present writ petition and also the materials available on record, this writ petition is taken up for disposal at this stage. In the writ petition, the petitioner is assailing the order of the Deputy Commissioner (Revenue), West Garo Hills, Tura dated 30.10.2014 wherein and where-under, the learned Deputy Commissioner (Revenue) West Garo Hills, Tura after, considering the case of the parties and also documentary evidence produced by the parties in support of their case held that the petitioner and others are the encroachers and find it fit to pass an order for eviction of the encroachers under Section 4 of the Meghalaya Public Premises (Eviction of Unauthorized Occupants) Act, 1980. The fact leading to the filing of the present writ petition is briefly noted.

3. A portion of land having total area of 746 Bighas comprises of Plot A, Plot B, Plot C, Plot D, Plot E, Plot F, Plot G, Plot H, Plot I and Plot K had already been acquired by the Govt. and compensation had already been paid to the land owners. It is stated that the Notification under Section 4 of the Land Acquisition Act, 1894 was issued by the Revenue Department, Govt. of Meghalaya vide No.

RDA.92/73/111 dated 19.04.1975 and the same was published in the Meghalaya Gazette dated 26.04.1975. After, considering the objection of the interested party, the Govt. of Meghalaya also issued Notification under Section 6 of the Land Acquisition Act, 1894 being No. RDA.92/73/141 dated 17.06.1975 that the said land is required to be acquired by the Govt. of Meghalaya for extension of Training Centre (SIRD) at Dakopgre Office & Residential Complex, Tura. The said Notification under Section 6 of the Land Acquisition Act was also published in the Meghalaya Gazette dated 21.06.1975. The concerned Collector of Land Acquisition, after considering the claim of the interested party to the said land measuring 746 Bighas i.e. Plot A, Plot B, Plot C, Plot D, Plot E, Plot F, Plot G, Plot H, Plot I and Plot K mentioned in the Notification under Section 6 of the Land Acquisition Act, 1894 and also documentary evidence produced by the interested party in support of their claim, had prepared the award for compensation. The members of Balchakram Megong Baldak Development Committee, had approached this Court challenging the notice issued by the Deputy Commissioner (Revenue), West Garo Hills, Tura under the Meghalaya Public Premises (Eviction of Unauthorized Occupants) Act, 1980 to the encroachers who are occupying the said land measuring an area of 746 Bighas which had already been acquired by the Govt. and compensation also had already been paid to the interested party. The High Court had directed the parties to place their case before the Deputy Commissioner (Revenue), West Garo Hills, Tura. Pursuant to the directions of this Court, the parties placed their case before the Deputy Commissioner (Revenue), West Garo Hills, Tura, who held that illegal occupants have no right, title or interest in the land in question. Being aggrieved by the said order of the Deputy Commissioner (Revenue), West Garo Hills, Tura, the occupants preferred an appeal before the appellate authority being Revenue Appeal No. MBR/RA.4 of 2010; and that appeal was also dismissed by the Board of Revenue vide order dated 20.07.2010. The said occupants again filed a writ petition challenging the said order of the Board of Revenue dated 20.07.2010 and the High Court rejected the writ petition vide order dated 18.03.2011.

4. Writ appeal had been filed against the judgment and order of the learned Single Judge dated 18.03.2011 for rejecting the writ petition before the Division Bench of the erstwhile Gauhati High Court. The Division Bench of the erstwhile Gauhati High Court vide order dated 07.04.2011 passed in WA No. 99 of 2011 held that the appellants had no right over the land in question (under Plot "C") even though they may obtained pattas. It is pertinent to mention that the said land having an area of 746 Bighas had already been acquired as early as 1975 but the petitioner by producing the patta issued by the Garo Hills Autonomous District Council (for short "GHADC") only on 2014 claims that the land under the said patta does not fall within the said area of land i.e. 746 Bighas, which had already been acquired by the State Govt. for constructing of the Office & Residential Complex, Tura. The Division Bench of the erstwhile Gauhati High Court also observed in the judgment and order dated 07.04.2011 passed in WA No. 99 of 2011 that even if the appellants were put in possession of the land in

question by the Nokma, they have no right of ownership in view of the acquisition of land under the provisions of the Land Acquisition Act, 1894. The observations and findings made by the Division Bench of the erstwhile Gauhati High Court in the judgment and order dated 07.04.2011 read as follows:-

"There is no dispute about the fact that the Nokma, owner of the acquired land, has already received compensation for the acquisition. How the appellants claim title over the land under these circumstances is not clear. Even if the appellants were put in possession of the land in question by the Nokma, they have no right of ownership in view of the acquisition of the land under the provisions of the Land Acquisition Act. If at all the appellants have any grievance against the Nokma, they can take necessary steps against her, but merely because they were put in possession by the Nokma, does not mean they have a right, title or interest over the land in question."

5. It is clear from the record as well as the impugned order dated 30.10.2014 passed by the Deputy Commissioner (Revenue), West Garo Hills, Tura that the present writ petitioner had the opportunity to put up her case and also to produce the documents in support of her case that the land for which the patta had been issued by the GHADC as late as 2014 does not fall within the said land having an area of 746 Bighas which had already been acquired by the Govt. in public interest for constructing of Office & Residential Complex and for extension of Training Centre (SIRD) at Dakopgre, Tura. The Deputy Commissioner (Revenue), West Garo Hills, Tura after considering the case of the petitioner had come to the findings that the land claims by the petitioner under the said patta issued as late as 2014 falls within Plot "C" of the said land measuring 746 Bighas which had already been acquired by the Govt. for constructing of Office & Residential Complex and for extension of Training Centre (SIRD) at Dakopgre, Tura. The relevant portions of the findings of the Deputy Commissioner (Revenue), West Garo Hills, Tura in the impugned judgment and order dated 30.10.2014 read as follows:-

"Heard both the parties, the illegal occupants as well as the counsel for DRDA, the claimants of the Govt. acquired land. The only issue that remains to be determined is as follows:-

"Whether the land which is occupied by the 7 families, falls within Plot "C" of the acquired land or not".

The contention of the aggrieved party that their land falls outside the boundary of Plot "C" and that they are not unauthorized occupants of Govt. land is verified. All the records available and the land plan map for 746 Bighas showing all the plots which were acquired from Naging Nokma, rules out the contention of the 7 families that their land falls outside Plot "C".

The land pattas issued by the GHADC are null and void as per the judgment under reference. Even the pattas, submitted by some members of the aggrieved party in support of their claims as well as the Nokma documents are of recent

origin. Further, the class of land mentioned in the pattas issued are also not of the same type as both 2nd and also 3rd Class land have been mentioned. The aggrieved parties do not have any document to substantiate their verbal claim that they have been in occupation of the land for more than 30-40 years. Any document issued by any authority after 1978, when the acquisition proceedings were brought to a close, is null and void.

In view of the above detailed examination, I am of the considered opinion that inspite of being given a reasonable opportunity to substantiate their claim, the aggrieved party (encroachers) have miserably failed to adduce justification in support of their claim."

6. This writ petition is filed challenging the impugned order dated 30.10.2014 passed by the Deputy Commissioner (Revenue), West Garo Hills, Tura solely relying on the fact that the portions of the land now occupied by the petitioner was granted by the GHADC by issuing a patta as late as 2014 and her land falls outside Plot "C" of the said plot of land measuring an area of 746 Bighas which had already been acquired. This fact had already been decided by the Deputy Commissioner (Revenue), West Garo Hills, Tura by giving reason in the impugned order dated 30.10.2014. This Court is of the considered view that the matter for acquisition of 746 Bighas of the said land had already been finally decided as early as 1975 and compensation had already been paid to the interested party, and by producing a patta issued by the GHADC as late as 2014 cannot open the land acquisition matter which had already been decided as early as 1975. Over and above, the learned Deputy Commissioner (Revenue), West Garo Hills, Tura made a clear finding that the said land of the petitioner for which patta had been issued in the year 2014 falls within Plot "C" of the said plot of land measuring an area of 746 Bighas which had already been acquired by the State Govt. for constructing of Office & Residential Complex and for extension of Training Centre (SIRD) at Dakopgre, Tura.

7. For the foregoing discussions, this Court is of the considered view that this writ petition is devoid of merit and accordingly dismissed.