

(2002) 09 GAU CK 0058

In the Gauhati High Court

Case No : Writ Petition (C) No. 118 (SH) of 2001 and 2414 of 2002 (Gau)

Monen Sangma and Another

APPELLANT

Vs

State of Meghalaya and Others

RESPONDENT

Date of Decision : 13-09-2002

Acts Referred:

Administration of Justice and Police in the Khasi and Jaintia Hills Rules, 1937 — Rule 23(1)

Constitution of India, 1950 — Article 226, 229, 300A

Citation : (2003) 1 GLT 21

Hon'ble Judges : N.S. Singh, J

Bench : Single Bench

Advocate : V.K. Jindal, L. Lyngdoh and N. Singhania, for the Appellant; Anil Sharma, Addl. A.G. and B. Dutta, for the Respondent

Final Decision : Allowed

Judgement

N.S. Singh, J.—In this writ petition under Article 226 of the Constitution of India, the Petitioners, who are the joint Nokmas in respect of Samandagiri Akhing, being represented in the present writ application by their Attorney Sri. Heltone N. Marak, questioned the validity of the impugned Office letter/ order dated 22.11.2000, bearing No. MFG/13/62 as in Annexure-13 to the writ petition issued by the Principal Chief Conservator of Forests, Meghalaya, Shillong, (Respondent No. 3), coupled with a prayer for direction on the Respondents 1 to 4 and each and every one of them to hand over possession of the land measuring 4013 Bighas 1 Katha and 14 Lechas (536.6 hectares) which has already been demarcated and held to be the integral part of Samandagiri Akhing immediately along with all the properties, standing trees and other valuable forest produces, and to pay adequate compensation for unauthorised use and occupation for depriving the Petitioners of their usufructs for more than three decades, and for illegal extraction of trees and other valuable forest produces, or, in the alternative, to acquire the entire land under the Land Acquisition Act, 1894, and to pay just compensation in accordance with law thereby including the

value of land, value of trees and other forest produces, solatium and interest @ 12% per annum on the compensation amount from the date of illegal occupation, by contending, inter alia, that the legitimate rights of the Petitioners guaranteed under Article 300-A of the Constitution of India have been deprived of by the authority concerned/Respondents without any justification.

2. The facts of the present case in a short compass may be summed up as follows:

These two writ Petitioners are the permanent residents of Samanda in the district of East Garo Hills, Meghalaya and are the joint Nokmas of Samandagiri Akhing land (hereinafter referred to as "the Akhing land"), and in this writ petition they are represented by their Attorney Sri. Helton N. Marak. On 22.7.1981, the Petitioners filed a joint petition before the Executive member in-charge, Revenue, Garo Hills District Council, (for short, "GHDC"), Tura, wherein it was stated that the State Forest Department encroached upon a vast area of Akhing Land without their consent for which they raised objection regarding illegal occupation of the Petitioners' Akhing land by the State Forest Department thereby seeking for spot enquiry in presence of both the parties so that the possession of their Akhing land could be restored. The said joint petition was registered and numbered as Case No. GDC-Rev. No. 6/A/C of 1981-82, and notice was issued to the Forest Department by the Executive Member of the GHDC, and thereafter the Forest Department filed objection before the District Magistrate, West Garo Hills, Tura, wherein the Forest Department stated that the Executive Member of the GHDC, had no jurisdiction to entertain the dispute as the Forest Department was not belonging to Schedule Tribe. However, the Executive Member made a thorough enquiry into the matter and made spot verification in presence of both the parties and passed a related judgment dated 28.4.1983 thereby directing that the boundary between the Akhing land and Rongrenggiri Reserved Forest be demarcated by the Deputy Commissioner concerned, and while doing so he would take the aid of such officer(s) as he thought necessary to carry out the job in question, and demarcation be made in presence of both sides and the GHDC would also be associated while undertaking the work with the further direction to maintain status quo with regard to possession of the land as existed on that day till boundary as aforesaid was demarcated. Thereafter, the Petitioners approached the Deputy Commissioner, East Garo Hills for demarcation of the boundary and to maintain status quo regarding possession of the land in question in terms of the said judgment and order dated 19.8.1988 passed in Civil Rule No. 723/1983 (Misc. Case No. 310/1983) filed by the State Forest Department before this Court, but in spite of a specific order, some persons were removing trees and other forest produces from the disputed area, and, accordingly, the Petitioners approached the Deputy Commissioner concerned as well as the Divisional Forest Officer, Respondent herein, to stop removal of trees, timber and other forest produces by those persons, and to maintain status quo in terms of the related order of this Court dated 19.8.1988. The concerned Assistant Settlement Officer addressed a letter dated 27.5.1993 to the Deputy

Commissioner concerned, Respondent herein, to take necessary steps regarding the objection raised by the writ Petitioners and the Petitioners also brought the matter to the notice of the GHDC regarding a Sale Notice inviting tenders issued by the Forest Department for operation and removal of trees, timber, etc. from the disputed area, and in view of the above position, the said Senior Assistant Settlement Officer by his letter dated 16.8.1993 also requested the Deputy Commissioner to instruct and ask the Forest Department to restrain from such activities till the process of demarcation was completed in all respects in terms of the related order passed by this Court, but inspite of all these efforts, demarcation of the land in question was not done, and, on the other hand, the State Forest Department were allowing persons to remove the forest produces from the disputed area. Being aggrieved by such action of the State Forest Department, the Petitioners moved a writ petition, being Civil Rule No. 2212/1993 before this Court, and during the pendency of the said Civil Rule, a Miscellaneous application was also filed seeking relief for demarcation of boundary of the land in question by the Survey of India within a time-bound period, and this Court by order dated 22.8.1994 disposed of the Miscellaneous application directing the Deputy Commissioner, East Garo Hills, Williamnagar, to complete the boundary demarcation by the Survey of India by 30.11.1994. Thereafter, the Survey of India verified and relaid the boundary of the entire Rongrenggiri Reserved Forest and submitted its report in May, 1996, and its clarification in October, 1996, and on receipt of the case records along with the report, the Deputy Commissioner, East Garo Hills District passed an order dated 13.12.1996 wherein it was observed that the boundary of the entire Rongrenggiri Reserved Forest was authentically relaid by the Survey of India and now the alignment of boundary on the disputed segment could be demarcated by the Deputy Commissioner for which 14.1.1997 was fixed thus calling all the parties concerned and the survey party of the Survey of India, and on 9.4.1997, the Survey of India party showed the boundary alignment as demarcated by them to the parties concerned in the disputed segment between Samandagiri Akhing land and Rongrenggiri Reserved Forest from boundary pillar No. 1 to boundary pillar No. 7 in presence of the Additional Deputy Commissioner, East Garo Hills and the said Additional Deputy Commissioner, who was also the supervisory officer, submitted a report which showed that an area covering 4013 B. 01 K. 14 L. (536.6 hectares) was decided to be the integral part of Samandagiri Akhing land and, thereafter, the Deputy Commissioner, East Garo Hills District by an order dated 23.4.1997 directed the authority concerned to submit a copy of the said order and report to the Registrar of this Court in Guwahati for information and the copy of the same was also sent to the parties concerned. It may be noted here that since the Petitioners submitted before this Court that they got all the reliefs claimed in the writ petition, this Court by order dated 27.11.1997 disposed of the said Civil Rule No. 2212/1993 and Contempt Petition, being COP(C) No. 560/1995 with the specific order and observation that if anything was left to be done, the Petitioner may approach the authority in terms of the order of the Deputy Commissioner. In view of the observation made by this Court

under the related order dated 27.11.1997, mentioned above, these writ Petitioners filed an application before the Deputy Commissioner, East Garo Hills District for physically handing over of the Akhing land and properties in question obtained after demarcation of the boundary in between Samandagiri Akhing land and Rongrenggiri Reserved Forest by putting permanent pillars along the demarcated boundary, and also for making adequate payment of compensation in favour of the Petitioners on account of unauthorised possession of the Akhing land by the State Forest Department thereby depriving the Petitioners" right of cultivation, gardening, establishment of houses, etc. On the basis of the said application dated 21.7.2000, the Deputy Commissioner, East Garo Hills District addressed a letter dated 31.7.2000 to the Petitioners wherein the former informed the Petitioners that "Authority" concerned as referred by this Court in the aforesaid Civil Rule No. 2212/1993 was the District Forest Officer (Territorial), Tura, under whose jurisdiction the disputed reserved forest area fell, and regards survey, demarcation and showing of boundary alignment of both the parties were concerned, the Divisional Forest Officer (Territorial), Garo Hills, Tura, was the appropriate "Authority" and therefore, the Petitioners were requested to approach the said Divisional Forest Officer (Territorial), Garo Hills, Tura. The Petitioners, thereafter, approached the said Divisional Forest Officer (Territorial), Garo Hills, Tura stating that the Forest Department encroached upon the Akhing land and the same was kept under their unauthorised occupation for a long time. The Deputy Commissioner, East Garo Hills District then addressed a letter dated 31.10.2000 to the Commissioner and Secretary to the Government of Meghalaya, Revenue Department seeking instruction/suggestions with regard to the ultimatum issued by the Nokmas of Samandagiri Akhing land. According to the Petitioners, the Principal Chief Conservator of Forests, Meghalaya, Shillong, addressed a letter bearing No. MFG.13/62 dated 22.11.2000 to the Principal Secretary to the Government of Meghalaya, Forest and Environment Department in respect of the ultimatum issued by the Nokmas of the Samandagiri Akhing to take physical possession of a portion of Rongrenggiri Reserved Forest in pursuance of relaying of the boundary by the Survey of India, and the Principal Chief Conservator of Forests, Meghalaya, Shillong, vide office letter dated MFG. 13/ 62 dated 20.12.2000 informed the Divisional Forest Officer, Garo Hills Division, Tura that on receipt of the Government advice, the same would be conveyed to him. When the Respondents/ authority concerned did not hand over the physical possession of the Akhing land, the Petitioners served a legal notice dated 8.2.2001 to the Respondents concerned, but despite service of such legal notice, the Respondent-authorities paid no heed too, and having no alternative, the Petitioners have preferred this writ petition under Article 226 of the Constitution of India.

3. Mr. V.K. Jindal, learned Sr. Counsel, assisted by Mr. L. Lyngdoh and Ms. N. Singhania, appearing for the Petitioners, supporting the case of the Petitioners, submitted that despite existence of clear evidence that a vast area of Akhing land had been encroached by the State Forest Department without the consent

of the Nokmas of the Akhing land as highlighted by the Petitioners in their writ petition and even after the proper demarcation of the said Akhing land by the competent authorities in accordance with the directives of this Court in the related cases, namely, Civil Rule No. 723/1983 and Civil Rule No. 2212/1993 as well as COP(C) No. 560/1995, the Respondent-authorities neither handed over the physical possession of the Akhing land in question to the Petitioners nor did the Respondent-authorities take steps for payment of due compensation to the Petitioners for long occupation of the Akhing land by the Respondent-State Forest Department nor acquired the said Akhing land in accordance with the provisions of the Land Acquisition Act. It is a great inhuman treatment on the part of the authorities concerned in depriving the legitimate right of the poor people residing in Samandagiri Akhing land, Mr. Jindal contended. Supporting the case of the Petitioners, Mr. Jindal, learned Sr. counsel, relied upon the averments made in the writ petition.

4. Resisting the case of the writ Petitioners, the Respondents filed affidavit-in-opposition by contending, inter alia, that the name of Sri. Monen Sangma, Petitioner No. 1, has appeared as Nokma No. 1, replacing the name of one Sri. Maijan Sangma and it has not been disclosed nor supported by any materials whether the said Sri. Monen Sangma, Petitioner No. 1, has actually been recognised as Nokma by the GHDC, and that the Executive Member in-charge. Revenue, GHDC had no jurisdiction and power to pass the order dated 28.4.1983 and, therefore, the said order was null and void. It is averred in the said affidavit-in-opposition that the writ petition is barred by res-judicata in view of the fact that the Petitioners had already submitted before this Court that they got all the reliefs claimed in the writ petition on the strength of the order dated 23.4.1997 passed by the Deputy Commissioner, East Garo Hills District in connection with Civil Rule No. 723/1983 and Civil Rule No. 2212/1993 vide order dated 27.11.1997 passed in Civil Rule No. 2212/1993. It is also the case of the Respondents that there could not in fact be any dispute with regard to the boundary of Rongrenggiri Reserved Forest and that of the Akhing land so far claimed by the Petitioners as there was no encroachment by the State Forest Department upon the Samandajiri Akhing land since the scientifically prepared map in respect of the land in question was neither available nor produced by the Petitioners, and it was the consistent endeavour of the State-Respondents to protect the area of the Rongrenggiri Reserved Forest as notified in the Government of Assam Notification No. 3752 of 1932 applicable to the State of Meghalaya and, accordingly, no person was allowed to remove trees or any forest produce from the said Rongrenggiri Reserved Forest except in accordance with the provisions of the Assam Forest Regulation, 1891, governing restriction, removal, transit of timber, etc.

5. Supporting the case of the State-Respondents, Mr. Anil Sarma, learned Addl. Advocate General, Meghalaya, assisted by Mrs. Binoya Dutta, learned Govt. Advocate, argued that the judgment dated 28.4.1983 passed by the Executive Member of the GHDC was void ab initio and the same should be treated as non-

est inasmuch as the Executive Member had no power and jurisdiction to pass such order dated 28.4.1983. Mr. Sarma, learned Addl. Advocate General, cited a decision in this Court rendered in Union Territory of Mizoram v. C. Lalthanpara reported in (1983) 2 GLR 269, and also the decision in North Cachar Hills District Council (SLC), Haflong v. Neithang Hmar, reported in 1973 ALR 312, and submitted that the State Forest Department was not a "person belonging to a Scheduled Tribe" and, as such, the Executive Member had no jurisdiction to entertain and/or try the said case as against the State Forest Department, and the State Forest Department could not be termed as "person belonging to a Scheduled Tribe".

6. Learned Addl. Advocate General went on to contend that the present writ petition is barred by the principle of *res judicata* as the matter had already attained its finality in terms of the judgment and order (oral) dated 27.11.1997 passed by this Court in Civil Rule No. 2212/1993 wherein these Petitioners had specifically stated that they got all the reliefs as claimed by them in the said writ petition, and the said Rongrenggiri Reserved Forest have all along continued to be under the uninterrupted possession and control of the Government and the areas within the aforesaid Rongrenggiri Reserved Forest have all along been maintained as Forest Land.

7. Now this Court is to see and examine as to whether these Petitioners have enforceable legal right in the present writ petition or not, and whether reliefs sought for by the Petitioners in the writ petition can be granted by this Court in exercise of its power under Article 226 of the Constitution of India.

8. So far the evidentiary value and the validity of the order dated 28.4.1983 passed by the Executive Member of GHDC as seen in the document marked Annexure-2 to the writ petition is concerned, according to me, the submission of Mr. A. Sarma, learned Addl. Advocate General, Meghalaya, has a great force, though the Petitioners contended that the said Executive Member decided the question of jurisdiction raised by the State Forest Department and came to a specific finding that since the dispute was relating to Akhing land and its boundary, and the dispute was within the purview of the District council, for the following reasons:

(i) the State Forest Department though involved in the connected case GDC-REV No. 6 A/C of 1981-82 as opposite party was not "a person belonging to a Schedule Tribe" keeping in view the decision of this Court in Union Territory of Mizoram v. C. Lalthanpara (*supra*), wherein this Court held thus:

Under our Constitution a State can use or be used as a juristic personality: vide the State of Punjab Vs. Okara Grain Buyers Syndicate Ltd. and Others, In P.C. Biswas v. Union of India, AIR 1956 Assam 85, this High Court has held that subject to the limitations prescribed in Article 229 and other provisions of law, the contractual liability of the State is the same as that of the individual under the ordinary law of contract. In Superintendent and Legal Remembrancer, State

of West Bengal Vs. Corporation of Calcutta, it has been held that in republican India the State is also bound by a statute unless expressly excluded. It has been held that the word "person" by itself is not conclusive to exclude the State from the purview of an act. The term "person" may include the State for incurring the liability to be prosecuted. The same has been expressed by the Supreme Court in Union of India (UOI) Vs. Jubbi and Dunia, etc., and the The State of Bihar Vs. Rani Sonabati Kumari, As such the term "person" may include a State. It may sue or be sued but is it possible to fit in a legal or juristic person in Rule 23(1)(b) of the Rules, as 8 person belonging to a Schedule Tribe? The State cannot acquire the quality or characteristics of a Scheduled Tribe. At least in republican India no State or Union Territory can claim that it belongs to "a Scheduled Tribe". No State or Union Territory can claim to be tribal or non-tribal. Similarly, the Union Territory of Mizoram and/or the Administrator cannot claim as persons belonging to a Scheduled Tribe. There is nothing in the Constitution and the law that only a Tribal can get elected in the Union Territory of Mizoram and form Govt, and/or the State does not comprise exclusively of the members of the Scheduled Tribe persons. Even where the constituents of the State and/or the Govt, are composed of only Scheduled Tribes people, the constituents shed their Scheduled Tribes trappings while taking the composite character. No State or Govt, can claim itself to be "belonging to a Scheduled Tribe". A similar question came up before a Division Bench of this Court in North Cachar Hills District Council (Secretary, Executive Committee) v. Neithang Hmar and Anr. 1973 ALR 312 . The moot questions were, whether the District Council could be regarded as belonging to a Scheduled Tribe, and, whether the District council Courts had jurisdiction to try a suit against the District Council. It has been held that the District councils do not belong to any Scheduled Tribe and that the District Council Court has had no jurisdiction to try any suit by or against the District Council. We respectfully agree with the view. Therefore, we reach the conclusion that the Union Territory of Mizoram is not a person belonging to a Scheduled Tribe. As such, the District council court has had no jurisdiction to try any suit by or against the Union Territory. Now the question is which court will try this action? This question has been answered in Nirasing Momin v. Jengno Maraksa, 1972 Cri. LJ. 68 wherein full Bench of this Court having held that the District Courts had no jurisdiction to try the case in view of the nature and character of the action held that the other existing courts in the State will be competent to try the same. In Mizoram trial of suits and cases of specified description have been conferred on the District Council Courts to the exclusion of other courts. However, when the District council Courts cannot try a case or are not authorised to try it, the ordinary court shall be competent to try the action in the absence of a positive command. The trial of suits against a person not belonging to a Scheduled Tribe has been excluded from the Jurisdiction of the District Council, therefore, such actions can be tried by the ordinary courts constituted to try actions. As such, we hold that when the District Council Court is not competent to try the present action, the case can be tried exclusively by the courts constituted under the Rules for the Administration of Justice, 1937.

As a result of the foregoing discussions, we reach the conclusion that the State is not a natural person, the Rule 23(1)(b) of the Rules includes only natural person belonging to a Scheduled Tribe, that the State is a legal or juristic person which can sue or be sued but they cannot be termed as "person belonging to a Scheduled Tribe" and that the District Council Courts can try cases between natural persons all of whom belong to the Scheduled Tribes and cannot try the cases wherein one of the parties does not belong to a Scheduled Tribe.

9. Situated thus, the judgment and order dated 28.4.1983 passed by the Executive Member, i/c Revenue, GHDC, Tura has no legal force. However, it may be noted here that the said judgment and order has been merged with the order dated 19.8.1988 passed by a Division Bench of this Court in Civil Rule No. 723 of 1983 which is relevant for the purpose of this case and, accordingly, the same is quoted hereinbelow:

The dispute in this petition under Article 226 of the Constitution is relatable to the boundary between Samandagiri Akhing-IV-47- 48 and Rongrenggiri Reserved Forest. As fairly agreed to by learned Counsel of all the sides, we dispose of the application by stating that the aforesaid boundary shall be demarcated by the Deputy Commissioner of the concerned district. While doing so the Deputy Commissioner would take the aid of such officer(s) he would think necessary to carry out the job in question. This would be done in presence of both the sides. The Garo Hills District Council shall also be associated while undertaking the work.

Till the boundary is demarcated as above, status quo regarding possession of the land as existed today shall be maintained.

This order dated 19.8.1988 has further been endorsed by this Court in a Misc. Application arising out of Civil Rule No. 2212/1993 vide order dated 22.8.1994 which is also relevant and, accordingly, the same is reproduced hereinbelow:

Civil Rule No. 2212/1993

Sri. Monen Sangma and Anr. ... Petitioner v. State of Meghalaya and Ors. ... Respondents

22.8.1994

Before

H.K. Sema

By this Misc. Application, the Petitioners are seeking a direction to demarcate the boundary of Forest land between the Petitioners' forest Samandagiri and Respondents' forest Rongrenggiri by an agency called the Survey of India within the time-bound programme.

Heard Mr. D. Das, learned Counsel for the Petitioners, and Mr. A. Sarma, learned Govt. Advocate, Meghalaya.

From the order sheet dated 23.2.1994, it appears that some demarcation has been done. It, however, appears from the order itself that the learned Deputy Commissioner, East Garo Hills District, directed the Survey of India, to demarcate the boundary land after taking into consideration the relevant documents. By the aforesaid order, however, no time bound programme was given.

After hearing the learned Counsel for the parties I dispose of the Misc. Application with the direction to the Deputy Commissioner, East Garo Hills District, Williamnagar to complete the boundary demarcation by the Survey of India by 30.11.1994.

With the aforesaid direction, the Misc. petition is disposed of.

That apart, this Court further highlighted and discussed the matter in issue and dealt with the same pros and cons and made the following order vide judgment and order dated 27.11.1997 passed in connection with Civil Rule No. 2212/1993 which is also relevant and, accordingly, the same is quoted as hereunder:

It is submitted by Mr. D. Das, learned Counsel for the Petitioners that the Petitioners have got all the reliefs claimed in the writ application on the strength of the order dated 23.4.1997 passed by the Deputy Commissioner, East Garo Hills, Williamnagar, in connection with C Rs. 723/1983 and 2212/1993. Accordingly, this writ application as well as Contempt petition being COP(C) 560/1995 shall stand disposed of in terms of the order of the Deputy Commissioner, East Garo Hills, passed on 23.4.1997. A photocopy of this order shall be kept in the record. It is made clear that if anything is left to be done, the Petitioners may approach the authority in terms of the order of the Deputy Commissioner.

Also heard Mrs. B. Dutta, learned Counsel for the Respondents.

This disposes of this writ application as well as COP(C) 560/1995.

10. In terms of the related judgments and orders, mentioned above, the authority concerned, namely, the Deputy Commissioner, East Garo Hills District, Williamnagar under his office letter/order dated 13.10.2000 as in Annexure-12 to the writ petition highlighted all the facts in existence and made the following observations:

To

The Commissioner and Secretary to the Government of Meghalaya, Revenue Department, Shillong.

*** ** In this regard, the Divisional Forest Officer (Territorial), Garo Hills Division, Tura, was informed to take steps vide our letter No. EGH/ JUDL/41/ Pt.4/89/310 dated 31.7.2000 for handing over the land (copy enclosed). However, the Forest Department is not able to initiate steps to solve the matter till date which is likely to result in serious clash between the two parties.

In view of above, it is requested that suitable instructions/suggestions may be issued from your office.

This is for your information and necessary action.

Yours faithfully,

Sd/- Dr. P.S. Ahammed

Deputy Commissioner,

East Garo Hills, Williamnagar.

11. While perusing the writ petition, these writ Petitioners made the following statements in their affidavit-in-reply:

That the Petitioners respectfully submit that they have been fighting this litigation against the Respondents for up-keep of their right to property and for adequate justice during the last 19 years, and it has been clearly found that the Respondents have been illegally occupying the Petitioners' land since 1932. The Petitioners further submit that if a land acquisition proceeding is now initiated and if all the norms laid down in Land Acquisition Act, 1894, are legally and properly followed, They expect to get more than 20 crore of rupees. The Garo Hills District Council which is the custodian of land and Revenue Administration under the Schedule to the Constitution of India has fixed Rs. 5,000/- per bigha as the market value of Akhing land. As per the Land Acquisition Act, the value of the land has to be as per the market price. Therefore, the value of the land is itself comes to more than Rs. 2 crores. The value of trees standing on the Petitioners' land of various species and various girts will not be less than Rs. 10 crores, the solatium rate at the rate of 30% on 2 crores + 10 crores = Rupees 12 crores is Rs. 3 crores 60 lacs. There is a statutory requirement for payment of interest at the rate of 12% per annum on the above sum, i.e. on 15 crores 60 lacs. Even if this interest is calculated from 27.11.1997 the amount will exceed to Rupees 20 crores. In this background and keeping in view the fact that the Petitioners are economically and educationally and also socially backward members of Garo Scheduled Tribes, they humbly pray that the Hon'ble Court may graciously pleased to order the Respondents to pay an interim relief of at least Rupees 6-7 crores within a given time frame to ameliorate their suffering. The interim payment if any made may be adjusted from the final award to be made in the eventual as a proceeding or from any out of court settlement that the Respondents may enter with the Petitioners.

12. A bare perusal of the statement quoted above, it appears to me that the Petitioners have prayed for interim relief for grant of at least Rs. 6 to 7 crores within the stipulated time as the people at large under the Nokmas of the Akhing land have been suffering for many years as they have been deprived of their valuable property without compliance of the due process of law.

13. There is ample evidence on record that for the last many years, the State

Forest Department have been encroaching upon the Akhing land in question thus depriving the legitimate rights of the innocent indigenous tribal people of the country. According to me, the rights of the indigenous tribal people should be protected so as to ensure social justice and their economic condition as enshrined in the Preamble of the Constitution of India. I made this observation keeping in view the fact that the rights of the indigenous clan people to cultivate and/or to establish their dwelling houses over the Akhing land in question despite the decision of the competent authority declaring the said Akhing land as integral part of the Samandagiri Akhing land have been deprived of without any justification, and apart from that they have been deprived of the usufructs of the land in question because of non-handing over of possession in spite of settlement of dispute and demarcation of boundary of land in question by the competent authorities in terms of the related orders passed by this Court, as discussed above, as well as the report of the Survey of India. According to me, the State-Respondents have been snoring over the file by writing something this or that and by issuing the impugned office letter/order dated 22.11.2000 as in Annexure-13 to the writ petition issued by the Principal Chief Conservator of Forests, Meghalaya, Shillong without any justification, and, accordingly, in my opinion, the said impugned office letter/ order dated 22.11.2000 is inconsistent with and violative of the judgments and orders passed by this Court in the earlier writ petitions as discussed above and on this ground alone the same is liable to be set aside and accordingly, it is quashed.

14. It is made clear that the present Petitioners/Nokmas who are representing the indigenous people of Samandagiri Akhing land, have urged either for delivery of possession of the Akhing land in their favour, or, for acquisition of the entire land in question if required by the State Government, and for awarding due compensation for wrongful possession/ occupation of the Akhing land for last many decades, but nothing has been done from the end of the Respondent-authorities rather they have been enjoying the usufructs of the land in question by leasing it out for last many years thus depriving the legitimate rights of the poor indigenous people of area in question, which according to me is a great injustice towards such poor indigenous tribal people. Keeping in view of the existing facts and circumstances of the case, this Court has no alternative but to grant ad-interim compensation to the tune of Rs. 2(two) crores in favour of the Petitioners which amount be paid by the Respondent-authorities within a period of three (3) months from today. However, it is made clear that the Respondent-authorities are at liberty to acquire the Akhing land as required under the provisions of the Land Acquisition Act or to deliver the possession of the Akhing land to the Petitioners within a period of three (3) months from today (as per demarcation made). It is made clear that if the Akhing land acquired by the State-Respondents/competent authority in accordance with the related Land Acquisition Act, the interim compensation so far awarded above in favour of the Petitioners would be adjusted with the final award/compensation to be awarded in case of acquisition of the Akhing land in question is made if so advised.

15. For the foregoing observations, discussions, reasons and direction, the writ petition stands allowed and disposed of finally. However, considering the entire facts and circumstances of the case, I leave the parties to bear their own costs.