

(2014) 07 MEG CK 0002
In the Meghalaya High Court
Case No : WP(C) No. 246/2013

Rahul S. Surong

APPELLANT

Vs

The State of Meghalaya

RESPONDENT

Date of Decision : 24-07-2014

Acts Referred:

Citation : (2014) 4 GLT 306

Hon'ble Judges : T. Nandakumar Singh, J

Bench : Single Bench

Final Decision : Disposed Off

Judgement

T. Nandakumar Singh, J.—Challenge in this writ petition is to the letter/order dated 27.08.2013 to the representative of (L) Smti. B. Surong i.e. the Grandmother of the present writ petitioner, that the provisional allotment of the Stall No. 25, Meghalaya Urban Development Authority (for short "MUDA") Shopping Complex to (L) Smti. B. Surong is terminated with immediate effect. For easy reference, the said letter/order dated 27.08.2013 (Annexure-8 to the writ petition) is quoted hereunder:-

MEGHALAYA URBAN DEVELOPMENT AUTHORITY

SHILLONG.

No. MUDA/MON/228/2004/228 Dated Shillong, the 27th August, 2013

To,

The Representative of

(L) Smti. B Surong,

Stall No. 25

Shopping Complex,

Police Bazar, Shillong.

Subject: TERMINATION OF PROVISIONAL ALLOTMENT OF STALL No. 25 SHOPPING COMPLEX, POLICE BAZAR TO (L) SMTI. B. SURONG.

I am directed to inform you that the Provisional Allotment of Stall No. 25 MUDA, Shopping Complex to (L) Smti. B. Surong dated 4th March, 2004 is hereby terminated with immediate effect.

This has the approval of the competent authority.

Sd/- Secretary, Meghalaya Urban Development Authority, Shillong.

2. Heard Mr. R Kar, learned counsel for the petitioner and Mr. N.D. Chullai, learned Sr. GA assisted by Mr. S. Sen Gupta, learned GA appearing for the respondents No. 1 & 2. Also heard Mr. S.P. Mahanta, learned counsel for the respondent No. 3. None appears for the respondent No. 4 without showing any cause.

3. The succinct fact leading to the filing of the present writ petition is noted. The petitioner is the grandson of (L) Smti. B. Surong, allottee of the Stall No. 25, MUDA, Shopping Complex. It is also stated that in the said Stall No. 25, the petitioner and his late grandmother were jointly doing business in the name and style of "M/s. Wansena Watch Co." since 1979 and after the death of his late grandmother Smti. B. Surong on 09.12.2008, the petitioner is running the said business alone. The Secretary, MUDA under his order dated 04.03.2004 allotted the said Stall i.e. Stall No. 25 of MUDA, Shopping Complex, Police Bazar, Shillong to (L) Smti. B. Surong under the terms and conditions that rent will be Rs. 1890/- per month @ Rs. 35 per sq. ft. per month. Under the said allotment order (L) Smti. B. Surong had to sign the lease deed with the Secretary, MUDA with certain terms and conditions within seven days from the date of receipt of the allotment order. It is also stated in the writ petition that pursuant to the said allotment order, (L) B. Surong had deposited a sum of Rs. 11,340/- equivalent to 6 (six) months' rent in the form of Bank Draft in favour of MUDA payable at Shillong.

4. After the death of his grandmother (L) B. Surong, on 09.12.2008, the petitioner filed an application dated 03.05.2012 requesting to transfer the said Stall i.e. Stall No. 25 MUDA, Shopping Complex from the name of his late grandmother Smti. B. Surong to his name being the nominee and legal heir, vide no objection certificate dated 22.04.2005 issued by his late grandmother Smti. B. Surong during her lifetime. After a lapsed of one year from the date of filing the said application, the Secretary, MUDA issued a letter dated 20.06.2013 to the petitioner and one Smti. Anita Lanong asking them to appear for hearing regarding the Stall No. 25 MUDA, Shopping Complex, Police Bazar at the office chamber of the Member Secretary, MUDA. In the writ petition, it is categorically pleaded that there was no hearing on 20.06.2013 regarding the said Stall No. 25 and no further date was fixed for hearing.

5. Without any hearing in pursuance of the said notice/order dated 20.06.2013,

the impugned letter/order dated 27.08.2013 was issued to the petitioner by the Secretary, MUDA informing the petitioner that the provisional allotment of Stall No. 25 MUDA, Shopping Complex, Police Bazar to (L) B Surong dated 04.03.2004 is terminated with immediate effect. Being aggrieved by the said impugned letter/order dated 27.08.2013, the petitioner filed the present writ petition mainly on the ground that there was no hearing after the said letter/order was issued to him for hearing regarding the said Stall No. 25, and the impugned notice/order was passed without considering the case of the petitioner and also without any hearing.

6. The respondent No. 3 filed affidavit-in-opposition wherein, it is stated that there was a dispute between the present petitioner and one Smti. Anita Lanong regarding the said Stall i.e. Stall No. 25 MUDA, Shopping Complex, Police Bazar. It is also stated in the affidavit-in-opposition filed by the respondent No. 3 that according to Smti. Anita Lanong, the said Stall i.e. Stall No. 25 was originally allotted to her late brother Shri. N. Lanong.

7. From the affidavit-in-opposition filed by the respondent No. 3, it appears that there was a dispute between the petitioner and the said Smti. Anita Lanong regarding allotment of the said Stall No. 25. In the affidavit-in-opposition, it is not clear as to whether sufficient opportunity was given to the petitioner for putting up his case regarding his claim to the said Stall i.e. Stall No. 25 MUDA, Shopping Complex. Over and above, Smti. Anita Lanong was not made one of the respondents in the present writ petition. This factual disputes between the parties cannot be decided in the present writ petition. However, it is clear that the case of the petitioner was not properly heard by the respondent No. 3 before issuing the impugned letter/order dated 27.08.2013.

8. In the above factual backdrop, this writ petition is disposed of by directing the respondent No. 3 to give sufficient opportunity to the petitioner to put up his case in support of his claim to the said Stall i.e. Stall No. 25 being a nominee and legal heir of his late grandmother Smti. B. Surong, to whom the said Stall was allotted provisionally under the said allotment order dated 04.03.2004, and only after hearing the case of the petitioner and also that of Smti. Anita Lanong, the respondent No. 3 may pass appropriate order. It is also made clear that, if necessary, the parties may be allowed to produce the documents in support of their respective cases. The whole exercise indicated above should be completed by the respondent No. 3 within a period of 4 (four) months from the date of receipt of a certified copy of this judgment and order. Further, it is cautioned that there should not be any delay on the part of the petitioner to submit his necessary documents in support of his case to the respondent No. 3.

9. In order to enable the respondent No. 3 to consider the case of the petitioner and Smti. Anita Lanong afresh, the impugned letter/order dated 27.08.2013 is hereby quashed and set aside.

10. With the above observations and directions, this writ petition is disposed of.

11. Interim order, if any, also stands vacated.