

(2014) 05 MEG CK 0016
In the Meghalaya High Court
Case No : WP(C) No. 21/2011

Ram Binod Rai

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 27-05-2014

Acts Referred:

Citation : (2014) 05 MEG CK 0016

Hon'ble Judges : T. Nandakumar Singh, J

Bench : Single Bench

Final Decision : Disposed Off

Judgement

T. Nandakumar Singh, J.—The prayer sought for in the present writ petition is in the form of permanent injunction restraining the respondents to dismantle the structure or evict the petitioner from the plot of land covered under G.L.R. Survey Plot No. 138 situated at Jhalupara, Shillong Cantonment. It is an admitted case of the parties that G.L.R. Survey Plot No. 138 is situated within the Cantonment area. The case of the writ petitioner is that he is the grandson of (Late) Mothura Goala in whose name, the initial rent receipt in respect of G.L.R. Survey Plot No. 138 was issued by Special Military Estate Office, Assam Circle. After the death of (Late) Mothura Goala, his son i.e. father of the petitioner (Late) Puni Goala had paid the rent to the respondents by depositing the rent in the court. Petitioner's father (Late) Puni Goala expired on 18.08.2008. It appears from the pleadings and also from the submissions of the learned counsel appearing for the parties that the petitioner/respondents had earlier approached this Court by filing Revision Petitions in the matter relating with the eviction proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

2. In the Revision Petition filed by the father of the present petitioner being Civil Revision Petition No. 2 (SH) 1989, the Guwahati High Court passed the judgment and order dated 31.03.1995 for allowing the Revision Petition by injunctioning the respondents to evict the petitioner from the plot of land which he is occupying.

The Gauhati High Court passed the said injunction order i.e. 31.03.1995 in Civil Revision Petition No. 2 (SH) 1989 in the matters relating with the proceeding under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. The said order of the Gauhati High Court dated 31.03.1995 passed in Civil Revision Petition No. 2 (SH) 1989 is to be understood in the manner permissible by law. It is fairly well settled law that in the Revision Petition arising out of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, the Court cannot pass an order in the form of permanent injunction in favour of one of the parties without deciding the right and title of that party in that particular disputed land. The order passed by the Revision Petition should be understood in the context of the Revision Petition. This Court is not making any observation regarding the findings of the Gauhati High Court in the judgment and order dated 31.03.1995 passed in Civil Revision Petition No. 2 (SH) 1989.

3. The respondents filed the affidavit-in-opposition in the present writ petition, wherein, the respondents had taken a specific plea that the G.L.R. Survey Plot No. 138 of the Defence State/Shillong Cantonment was never settled with the predecessor of the petitioner i.e. (Late) Mothura Goala.

4. In the present writ petition, this Court is not deciding the serious disputed question of facts as to whether the G.L.R. Survey Plot No. 138 of the Defence land/Shillong Cantonment had been settled with the petitioner's predecessor (Late) Mothura Goala; however, this Court makes an observation that the Court cannot pass an order in the Revision Petition in the form of permanent injunction in a case for Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

5. In the above factual backdrop, this writ petition is disposed of by directing the petitioner to approach the competent Civil Court for declaration of his right, title and interest over the said plot of land i.e. G.L.R. Survey Plot No. 138 of the Defence land/Shillong Cantonment. It is made clear that the judgment and order of the Gauhati High Court dated 31.03.1995 passed in Civil Revision Petition No. 2(SH) 1989 shall not stand in the way in deciding the civil suit, if file, on merit taking into consideration of the pleaded case of the parties after full length trial.

6. Petitioner if there is an apprehension for eviction, he may file necessary application for temporary injunction which shall be decided by the Civil Court only after taking into consideration of the cases of the parties.

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