
(2005) 03 GAU CK 0018
In the Gauhati High Court

Sangzuali Gangte

APPELLANT

Vs

State of Manipur and Ors.

RESPONDENT

Date of Decision : 14-03-2005

Acts Referred:

Citation : (2005) 03 GAU CK 0018

Hon'ble Judges : T.Nanda Kumar Singh, J

Bench : Single Bench

Advocate : N.Umakanta Singh, Md.Jalaluddin, K.Kumar Singh, Advocates
appearing for Parties

Judgement

1. Heard Mr. N. Umakanta Singh, learned counsel appearing on behalf of the writ petitioner, Md Jalal Uddin, lerned G.A. appearing for the respondents 1 to 5 as well as Mr. K. Kumar Singh, learned CGSC for respondents 7 and 8.

2. What is happening in this court shocks the judicial conscience of this court. In a Sovereign Socialist Secular Democratic Republic Country, like India, there is no Feudal System and in this case the authorities are functioning as Feudal Lords. Even during the Second World War, Rule of Law was prevailed. But in this case in the name of maintaining the law and order of the State, the Board Security Forces (BSF) Personnel had forcedly taken possession of the building of "Lighthouse Cinema Hall". It is also an admitted fact that the petitioner is the Proprietress of the said Lighthouse Cinema Hall situated at Churachandpur. The said unfortunate incident was informed by the writ petitioner under her letter dated 20.1.2000 (AnnexureA/2 to the writ petition) to the Deputy Commissioner, Churachandpur District stating that the BSF Personnel had occupied the Light House Cinema Hall on 19.1.2000 without her consent and permission by breaking the locks. The Branch Officer/Judicial of the DC's Office, Churachandpur under his letter dated 22.1.2000 (AnnexureA/3 to the writ petition) had requested the Superintendent of police, Churachandpur to do the needful from his end. As the petitioner did not get any favourable reply from the Dy. Commissioner, Churachandpur as well as the Superintendent of Police,

Churachandpur, she filed another representation dated 24.5.2000 (AnnexureA/4 to the writ petition) to the Commissioner(Home), Govt. of Manipur stating that her Light House Cinema Hall building at Churachandpur had been occupied by the personnel of B.S.F. since 20.1.2000 till date by breaking the locks and without her consent. In her said application dated 24.5.2000 to the Commissioner(Home), Govt. of Manipur, she requested the Commissioner(Home) to take necessary steps for assessment of rent of her said Cinema Hall by the P.W.D. and also the Electricity Fees as billed by the Power Department. It appears that in pursuance of the said application of the petitioner dated 24.5.2000, the Under Secretary (Home), Govt. of Manipur wrote a letter dated 16.6.2000 (AnnexureA/5 to the writ petition) forwarding the said representation of the writ petitioner to the Director General of Police to furnish the report as to whether the said Cinema Hall of the petitioner was actually occupied by the B.S.F Personnel and if so, the house rent to be assessed by the PWD and the electric charges as billed by the Power Deptt. for the relevant period be paid to the proprietress of the said Cinema Hall, i.e. the present writ petitioner. Later on, the S.P., Churachandpur, under his letter dated 1.7.2000(AnnexureA/6 to the writ petition) forwarded the said representation of the petitioner dated 24.6.2000 to the Executive Engineer, PWD, Churachandpur with a direction to assess the rent of the said Light House Cinema Hall occupied by the B.S.F. Personnel, by the PWD in consultation with the O.C., Churachandpur Police Station. It appears ultimately the Executive Engineer concerned, i.e. the Executive Engineer, Churachandpur Division, PWD, Manipur had assessed the rent of the said Cinema Hall at Rs. 19,855/(Rupees nineteen thousand eight hundred and fiftyfive)only per month and the rent assessed by the said Executive Engineer, Churachandpur Division, PWD, Manipur was also intimated under his letter dated 26.2.2001(AnnexureA/7 to the writ petition) to the S.P., Churachandpur, Manipur. The assessment of the rent for the said Cinema Hall prepared by the Executive Engineer, CCpur Division, PWD, Manipur is available at AnnexureA/7(1) to the writ petition. The Joint Secretary(Home), Govt. of Manipur under his letter dated 11.4.2001(AnnexureA/8 to the writ petition) had requested the Director General of Police, Manipur to make necessary arrangement to shift the B.S.F. from the Light House Cinema Hall, Churachandpur, Churachandpur District to Chandel District and if the B.S.F. is unwilling to go to Chandel, they may be shifted to STC/CCP or at some other Govt. building within 16.4.2001 and also to take necessary steps to regularize the occupation of the Light House Cinema Hall as per the suggestions of the Finance Department Note No.15.

3. The S.P., Churachandpur vide his letter dated 28.9.2002 had requested the 30th Bn. BSF Bunamual to arrange to shift the BSF Personnel presently staying at Light House Cinema Hall to STC/CCP Churachandpur as the owner of the Hall is pressing hard for the payment of the rent for occupation of the Hall and also to pay the rent calculated by the PWD Deptt. On 26.2.2001 amounting to Rs. 19,855/ (Rupees nineteen thousand eight hundred fifty five)only per month as the state government is facing financial crisis at present. Again, the S.P.,

Churachandpur under his letter dated 16.10.2002 informed the Inspector General of Police(Admn), Manipur that the BSF Personnel are still occupying the said Cinema Hall and no official communication was received from the 32 Bn. B.S.F. authorities regarding the shifting of the said post. Thereafter, the Inspector General of Police (Admn) for Director General of Police, Manipur under his letter dated 23.12.2002 requested the Principal Secretary(Home), Govt. of Manipur to take up the matter with the appropriate authority and also to pay the rent fixed by the Executive Engineer, PWD, Manpur @ Rs. 19,855/(Rupees nineteen thousand eight hundred fifty five)only per month to the present petitioner (Annexure A/11(1) to the writ petition). Ultimately, the writ petitioner having no alternative issued a legal notice through her counsel dated 10.5.2004 (AnnexureA/13 to the writ petition) to (1) The Chief Secretary, Govt.of Manipur, (2) The Commissioner/Secretary(Home), Govt.of Manipur, (3) Director General of Police, Manipur, (4) Dy. Commissioner, Churachandpur District, Govt. of Manipur (5) S.P., Churachandpur, Churachandpur District and (6) Commanding Officer (C.O), 14th Bn. Central Reserve Police Force(CRPF) at Churachandpur demanding the vacation of the Light House Cinema Hall building from the forced/ unauthorized occupation by the security forces immediately and not later than 2(two) weeks and also for demanding rend @ Rs. 19,855/ per month for the occupation of the said Cinema Hall w.e.f. 20.1.2000 as assessed by the Executive Engineer, PWD, Churachandpur, Manipur, and also for payment of adequate compensation at the tune of Rs. 10,00,000/(Rupees ten lakhs). In response to the said legal notice, the petitioner did not get any information. When the said correspondences are going on about the unauthorisedly and forcedly occupation of the petitioner's Cinema Hall by the B.S.F. Personnel, the Central Reserve Police Force (CRPF), 14th Bn had unauthorizedly taken over the said Cinema Hall of the petitioner in the month of June, 2003 and since then the said CRPF personnel are unauthorisedly occupying the said Cinema Hall of the present petitioner. From the correspondences mentioned above, it clears that the respondents are trying to shift the responsibilities to pay the rent for the forcedly occupation of the petitioner's Cinema Hall to the petitioner to each other. According to entry No.1 of the ListII ?State List? to the 7th Schedule to the Constitution of India, Public Orders of the State of Manipur is the responsibility of the State and the Armed Forces of the Union are called out in aid of Civil Power. It is also the mandate of the Article 300A of the Constitution of India that no person shall be deprived of his property save by the authority of law. In the case in hand, the protectors of the law are the law breakers. The Security Forces mentioned above, in clear violation of the constitutional rights of the petitioner under Article 300A of the Constitution of India, are forcedly and unlawfully occupying the petitioner's said Cinema Hall by breaking its locks. The respondents 6 & 7 had filed their affidavitinopposition. In the affidavitinopposition of the respondent no. 7, (the Commanding Officer, 32 Bn. BSF, Churachandpur), and respondent no.8 (the Commanding Officer, 14Bn. Central Reserve Police Force, at Churachandpur), they had taken a very fallacious plea that one coy was given the responsibility to maintain the law and order in

and around Churachandpur (Manipur) township and with this in mind, the local police/State administration provided accommodation to the said coy in ?Light House Cinema? building but in support of their statement, there is absolutely no materials or any documents to show that they had been authorized to occupy the petitioner's Cinema Hall building forcibly.

4. In the above consideration of facts and circumstances, I am of the firm opinion that the respondents are jointly and severally liable to pay the rent fixed by the concerned Executive Engineer, of the Govt. of Manipur, i.e. @ Rs. 19,855/ (Rupees nineteen thousand eight hundred and fifty five)only per month from the date of forcibly occupation of the said Cinema Hall of the petitioner w.e.f. 19.1.2000 till the vacation of the said Cinema Hall building. It is left to the respondents to settle amongst themselves and pay the said rent along with the arrear rent at the rate mentioned above within a period of 4(four) months from the date of receipt of the certified copy of this judgment and order. The writ petition is disposed of as indicated above. No costs.