

(2012) 04 GAU CK 0016
In the Gauhati High Court
Case No : Writ Petition (C) No. 53 of 2011

Shri K. Sangzuala and Others

APPELLANT

Vs

The Union of India and Others

RESPONDENT

Date of Decision : 26-04-2012

Acts Referred:

Land Acquisition Act, 1894 — Section 4(1)

Citation : (2012) 04 GAU CK 0016

Hon'ble Judges : Ujjal Bhuyan, J

Bench : Single Bench

Advocate : P.D. Nair, Mr. G. Alam and Mr. H. Rohman, for the Appellant; B. Pathak, CGC for Nos. 1, 2, 3, 5 and 7 and Mr. Lalsawirema, Govt. Advocate for Nos. 4 and 6, for the Respondent

Judgement

Ujjal Bhuyan

1. 17 petitioners have joined together and filed this writ petition raising common grievance and seeking identical reliefs. The petitioners claim that they are the land owners of various plots of land in the Lunglawn area of Lunglei District in the State of Mizoram. From 1966 onwards their lands are in occupation of the security forces, more particularly the Assam Rifles, which is under the Ministry of Home Affairs, Government of India. The petitioners contend that various Battalions of the Assam Rifles have been in occupation of their lands and presently the 40th Bn. of the Assam Rifles is in occupation.

2. Despite such occupation of their lands, only a part of the rental compensation were paid to some of the petitioners. Aggrieved by the same, some of the petitioners had earlier approached this Court by filing writ petitions seeking payment of rental compensation. In one such writ petition W.P. (C) No. 41/2010, this Court had directed that the respondents should make spot verification to ascertain whether the lands are still under the occupation of the Assam Rifles. For this purpose, this court directed the constitution of a verification team. The further direction of this court was that after such verification, the team should

submit a report to the Ministry of Home Affairs, Government of India, who shall thereafter proceed on the basis of the report. Liberty was given to the petitioners to approach this court if they are aggrieved by the verification report or if the rental compensation is not paid to them. After that, the other writ petitions have also been disposed of on similar lines. By this writ petition, the petitioners seek a direction to the respondents to either acquire their lands by following the due process of law if their lands are required on a permanent basis for public purpose or to return back to them their lands.

3. The respondents have filed their counter affidavits.

4. The concerned respondents, i.e. respondents 1, 3 and 7, in their affidavit filed on 23.04.2012 have stated in paragraph 7 that pursuant to the order of this court in W.P. (C) No. 41/2010, the rental claim in favour of the genuine land owners have been submitted by the joint verification committee to the Assam Rifles and that the payment of genuine rental claims as verified by the joint verification committee is in progress with the competent authorities for sanction for onward payment to the genuine land owners through the Government of Mizoram. In paragraph 10 of the said affidavit, the said respondents have admitted that at present an area measuring 57.73 acres at Lunglawn, Lunglei District is in occupation under the Assam Rifles. In paragraph 12, the said respondents have stated that since the land mentioned above is required to establish an Assam Rifles Battalion, the process to acquire the land in question at Lunglawn has already been initiated by placing the requirement before the Deputy Commissioner, Lunglei District.

5. Heard Mr. P.D. Nair, learned counsel for the petitioners. Also heard Mr. B. Pathak, learned Central Government Counsel for the respondents 1, 2, 3, 5 and 7 as well as Mr. Lalsawirema, learned State counsel for the respondents 4 and 6.

6. Mr. Nair, learned counsel for the petitioners, submits that the respondents, more particularly the Assam Rifles, cannot be permitted to continue with the occupation of the petitioners' lands without following the due process of law. He submits that since 1966 the petitioners have been deprived of the benefits of their lands for a period of almost nearly half a century. He has, however, fairly submitted that the issue relating to payment of rental compensation for the occupation of the said land is the subject matter of the earlier writ petitions pursuant to which necessary steps are being taken by the authorities for payment of the rental compensation. In the present petition, the petitioners have confined their grievance to the issue of acquisition of their lands or in the alternative, to release the same. Mr. Pathak, learned Central Government Counsel relying on the averments made in the counter affidavit submits that the land measuring 57.73 acres at Lunglawn, Lunglei District is required for public purpose for the Assam Rifles Battalion already stationed there. He submits that that in this connection the Assam Rifles authorities have already taken up the matter with the District Collector.

7. Mr. Lalsawirema, learned State Counsel submits that the communication from the Assam Rifles authorities was made as recently as on 15.04.2012 and that the District Collector will take expeditious steps to initiate proceedings under the Land Acquisition Act, 1894.

8. In view of the stand taken by the contesting respondents in the affidavit and the submissions made by the learned counsels, the controversy raised in the writ petition has narrowed down to a very short compass. As the respondents have admitted that land measuring 57.73 acres at Lunglawn, Lunglei District is required for public purpose and should be acquired for which they have taken up the matter with the District Collector, this Court is of the view that this writ petition can be disposed of by issuing necessary directions to the respondents, more particularly the respondent No. 6, to initiate land acquisition proceeding in respect of the aforesaid land under the Land Acquisition Act, 1894 by issuing necessary notification u/s 4(1) of the said Act within a period of 3 (three) months from today. Ordered accordingly. Since the land in question is admittedly under the occupation of security forces for about 46 years, the respondents shall proceed with the acquisition proceedings with utmost expedition by scrupulously following the provisions of the Land Acquisition Act, 1894. With the above direction, this writ petition stands disposed of.