
(1963) 03 GAU CK 0003
In the Gauhati High Court
Case No : Civil Rule No. 318 of 1962

Smt. Longmai Shylla

APPELLANT

Vs

State of Assam and others

RESPONDENT

Date of Decision : 29-03-1963

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : AIR 1964 Guw 52

Hon'ble Judges : S.K. Dutta, J;C. Sanjeevarao Naidu, J

Bench : Division Bench

Advocate : J.C. Medhi, for the Appellant; G.K. Talukdar for (Opposite Party Nos. 2 and 3), for the Respondent

Final Decision : Allowed

Judgement

C.S. Nayudu, J.—This petition is under Arts. 226 and 227 of the Constitution, for the issue of an appropriate writ to quash the impugned order of the Deputy Commissioner, United Khasi and Jaintia Hills, and to direct him by a writ of mandamus not to give effect to the order questioned in this petition.

2. The facts of the case are briefly noticed, The petitioner is the owner of a building in Shillong town, in a portion of which she is living having rented the rest of the building to Mr. Raisinghani Director of Agriculture and Community Development, N. E. F. A. On 7-3-62 the Deputy Commissioner, United Khasi and Jaintia Hills, hereinafter referred to as "the Deputy Commissioner", issued an order requisitioning the petitioner's house under Sec. 3 of the Assam Land (Requisition and Acquisition) Act 1948, hereinafter referred to as "the Act", for the purpose of accommodating the office of the Director of Geology and Mining, Assam. This order was questioned by the petitioner in an appeal preferred by her to the Government The Government apparently issued an order of stay and so the building in question could not be effectively requisitioned and taken for the purpose for which the original order was issued by the Deputy Commissioner. As a result of this, it would appear that the Deputy Commissioner had requisitioned

another bungalow in Shillong, in which the office of the Director of Geology and Mining has since been housed.

It is thus clear that the purpose for which the original order of requisition was issued by the Deputy Commissioner under Sec. 3 of the Act had been fulfilled and met and the purpose no longer existed thereafter. Subsequently, the Government appear to have dismissed the appeal of the petitioner, and, thereafter, in view of the dismissal of the appeal, the Deputy Commissioner appears to have served a notice on the petitioner to vacate the building, so that the same may be taken over by him.

3. it is contended by Dr. Medhi, the learned Counsel for the petitioner, that while the Act permits and authorizes the Deputy Commissioner to requisition premises for a public purpose, once that purpose is otherwise fulfilled and discharged, it would not be open to the Deputy Commissioner to still rely on the original order of requisition and demand that the building be vacated. There is considerable force in this argument. There is no doubt that providing accommodation for a public office or a public officer is a public purpose within the meaning of the Act but once that purpose is achieved by other means, the justification for requisitioning the premises is no longer there, and hence the act of the Deputy Commissioner in requiring the petitioner to surrender possession of the building to him under the old order of requisite on would appear to be clearly without jurisdiction and opposed to the very object and purpose of the Act Reading this apparently the Deputy Commissioner in his affidavit in paragraph 4 stated that the office of the Director of Geology and Mining has been accommodated in a private house from 31-3-62, but the requisition order has not been withdrawn as the building is required for accommodation by the Government of Assam.

This clearly shows that the object of the Deputy Commissioner in demanding the petitioner to surrender possession of the building in question is not to house the office of the Director of Geology and Mining, for which purpose the original requisition order was served on the petitioner, but for some other purpose of the Government of Assam. If there is any other public purpose for which the building of the petitioner is required, it would undoubtedly be open to the Deputy Commissioner concerned to serve a fresh notice of requisition on the petitioner for that purpose, so that she may have an opportunity of, if necessary, contesting that notice by taking appropriate proceeding allowed to her by law. We are clearly of opinion that the act of the Deputy Commissioner in demanding the petitioner to surrender possession of her building under the original order of requisition served by him, which has ceased in our opinion to have any legal effect, is clearly beyond his powers and cannot be permitted under the provisions of the Act.

4. In the result the petition is allowed with costs which we assess at Rs. 50/-, and the opposite parties are directed to refrain from enforcing the order questioned in this proceeding against the petitioner.

S.K. Dutta, J.

5. I agree.