

(2019) 09 MAN CK 0005

In the Manipur High Court

Case No : Public Interest Litigation No. 40 Of 2019

Vakham Zimik

APPELLANT

Vs

State Of Manipur And Others

RESPONDENT

Date of Decision : 04-09-2019

Acts Referred:

Manipur Land Revenue And Land Reforms (Allotment Of Land) Rules, 1962 — Rule 18, 18(iii), 18(iv), 18(v)

Manipur Land Revenue And Land Reforms Act, 1960 — Section 14(2)

Citation : (2019) 09 MAN CK 0005

Hon'ble Judges : Ramalingam Sudhakar, CJ;Kh. Nobin Singh, J

Bench : Division Bench

Advocate : Mark Khapai, N.Kumarjit, A.Bimol, Jallaluddin, Ajmal Hussain

Judgement

R.S., CJ

[1] The prayers in this PIL are as follows:-

"a) Issue appropriate writ, direction or order in the nature of certiorari or any other appropriate writ, direction or order declaring and quashing the impugned Allotment Order No. 23/31/95-R dated 13.09.1995 issued by the Governor of Manipur, Revenue Department, Government of Manipur and the impugned Letter No. 10/11/95-Rev dated 21.09.1995 issued by the Addl. Deputy Commissioner, Ukhrul as illegal and null and void ab initio;

b) Issue appropriate writ, direction or order in the nature of certiorari or any other appropriate writ, direction or order declaring the impugned the delivery of possession Order dated 28.09.1995 issued by the Sub-Divisional Officer, Ukhrul as illegal and null and void ab initio;

(c) Issue appropriate writ, direction or order in the nature of mandamus or any other appropriate writ, direction or order directing the Respondent Nos. 1,2,3 and 4 to remove and shift the existing illegal structure of Juma Masjid (Mosque) from the proposed District & Session Court Complex, Ukhurl;

(d) Direct the Respondents to shift the Juma Masjid (Mosque) to the alternative site so provided free of cost,"

[2] The President of the Ukhrul District Bar Association has filed the present PIL for the above stated reliefs arraying five respondents. Subsequently, 6th and 7th respondents were added. The cause of action for filing the PIL was to ensure that the District & Sessions Court Complex, Ukhrul is constructed in an uniform and orderly manner and it is alleged that illegal structure, Jama Masjid "Mosque" allotted by the order impugned in the PIL should be cancelled and the said area be handed over for uniform construction of the District & Sessions Court Complex, Ukhrul. In this background, the matter was first taken up and notice was issued on 03.5.2018 which reads as under:-

"03.5.2018

Heard Mr. Phungyo Zinkhai, learned counsel for the petitioner.

Issue notice returnable within 4(four) weeks.

Mr. Sukumar, learned counsel assisting Mr. N.Kumarjit, learned AG accepts notice on behalf of Respondents No.1, 2 and 3.

Petitioner is to take steps for service of notice upon the Respondents No.4 and 5 by speed post, in addition dasti service is allowed.

List the matter again on 08.06.2018."

[3] Md. Jallaluddin, learned senior counsel appears on behalf of the Masjid Committee, Juma Masjid Royotang, respondent No.4 and Md. Ajmal Hussain, learned counsel appears for the Manipur State Waqf Board, Minuthong, respondent No.6 and Mr.N.Kumarjit, learned Advocate General appears for all other official respondents.

[4] In course of hearing, a suggestion was made that the Jama Masjid can be shifted to another location if the State Government provides alternative place. There was also the issue of location of the Jama Masjid in relation to the land allotted to the District & Sessions Court Complex, Ukhrul and therefore, a proper map was called for. The order dated 3.12.2018 reads as follows:-

"03.12.2018

R.S., CJ

In order to resolve the controversy which relates to the actual location of the Masjid as well as the land allotted to the Ukhrul District Court, the topography map with identity of all existing buildings including nearby surrounding areas should be made. In order to ensure proper coordination between the District Court and the respondents, the Registrar General of the High Court of Manipur is added as party respondent and Mr. A. Bimol, learned Sr. Counsel is directed to take instructions on the matter.

List the matter on 17.12.2018.

Copy of this order be furnished to learned AG for ensuring the preparation of topography map of the land as above.

Registry to furnish copies of the pleadings and orders passed to Mr. A. Bimol, learned Sr. counsel appearing for the High Court."

[5] Topography report was submitted and from that it is evident that the Masjid falls within the outer perimeter of the District & Sessions Court Complex, Ukhrul. Thereafter, a detailed order was passed on 17.7.2019 and the order reads as follows:-

"ORDER

R.S., CJ

By order dated 1st December, 2015, the Under Secretary (Revenue) Government of Manipur allotted land for District & Sessions Court Complex, Ukhrul. Annexure-P/7, page 25, which reads as follows:

"GOVERNMENT OF MANIPUR

SECRETARIAT: REVENUE DEPARTMENT

No 21/374/2015-R

Imphal, the 1st December, 2015

To

Deputy Commissioner,

Ukhrul District, Manipur.

Subject: Allotment of land for District & Sessions Court Complex, Ukhrul.

Sir,

I am directed to invite a reference to your letter No. 10/06/2011-Rev(UKL) dated 10-07-2015 on the above subject and to convey approval of this Government to the allotment of land at the site of old SDO's office complex and the area of old State Government Quarters covered by CS Dag No. 2214 and 2219 [excluding the land already allotted in favour of Masjid Committee, Ukhrul measuring an area of 40 ft x 32 ft] for District & Sessions Court Complex, Ukhrul subject to realization of premium value based on a token premium @ Rs. 1000/- (Rupees one thousand) only per acre.

Yours faithfully

Encl: As Above.

Sd/-

(H. Balkrisna singh)

Under Secretary (Revenue)

Government of Manipur."

Consequent thereupon, the Deputy Commissioner, Ukhurul passed an order on 4th February, 2016, Annexure P/8 which is extracted as follows:-

"GOVERNMENT OF MANIPUR

OFFICE OF THE DEPUTY COMMISSIONER, UKHRUL

ORDERS

Ukhurul, the 4th Feb. 2016

No. 10/06/2011- DC(UKL): in pursuance of the Govt. Revenue Department's letter No. 21/374/2015-R dated 01/Dec./2015, the area of land at the site of old SDO Office complex, Ukhurul and the area of State Government quarters covered by CS Dag No. 2214 and 2219 of sheet No.12 of Ukhurul Town area wherein excluding the area (40 ft x 32 ft) of masjid Committee, Ukhurul are hereby allotted for establishment of District and Sessions Court complex, Ukhurul subject to payment of premium value fixed by the Government at the rate of Rs. 1000 (Rupees one thousand) per acre.

Scheduled of the land

North: Post office land, Ukhurul

South: Assam Rifles land and private land

East: Imphal-Ukhurul Road

West: Private land

Sd/-

(Hrisheekesh Modak, IAs)

Deputy Commissioner, Ukhurul"

The Deputy Commissioner also passed an order for demarcation on 6th August, 2016, Annexure-P/8 which reads as follows:-

"GOVERNMENT OF MANIPUR

OFFICE OF THE DEPUTY COMMISSIONER, UKHRUL

NOTIFICATION

Ukhrul, the 6th August, 2016

No. 10/06/2011-DC(UKL): Whereas, the area of land at the site of old SDO Office complex, Ukhrul and Government Quarters covered by C.S Dag No.2214 and 2219 of sheet No. 12 of Ukhrul small Town (wherein excluding Masjid area 40'x32') has been allotted for establishment of District and Sessions Court Complex, Ukhrul vide allotment order even number dated 04.02.2016 as land schedule boundary given hereunder.

Land Schedule

North - Post-Office, Ukhrul

South - Assam Rifles and Private land

East - Imphal-Ukhrul Raod

West - Private land.

And whereas, the said allotted land shall be handed over to the concerned Department (allottee) shortly after boundary demarcation of the areas.

Therefore, any private occupants within the said area of land allotted for District and Sessions Court, Ukhrul are directed to appear before the undersigned on 11.08.2016 at 3: 00PM along with connected documents positively failing which they will be evicted without further notice.

Sd/-

(Hrisheekesh Modak, IAS)

Deputy Commissioner, Ukhrul"

Then, on 19.3.2018, the Deputy Commissioner passed another order in relation to demarcation. Annexure-P/13 which is quoted as below:-

"No. 10/06/2011-DC(UKL)

GOVERNMENT OF MANIPUR

OFFICE OF THE DEPUTY COMMISSIONER: UKHRUL

OFFICE MEMORANDUM

Ukhrul, the 19th March, 2018

Subject: Demarcation and removal of encroachment from the area allotted for establishment of District and Sessions Court Ukhrul.

Whereas, the area of land covered by C.S. Dag No. 2214 & 2219 of sheet No. 12 of Ukhrul Small Town excluding Masjid Area (40'x32') has been allotted for establishment of District & Sessions Court Ukhrul vide land allotment Order of

even number dated 04-02-2016 in pursuance of Revenue Department Govt. of Manipur letter No. 21/374/ 2015-R dated 01-12-2015.

Whereas, the demarcation of the land allotted was scheduled to be carried out by a joint team of DS & LR, Representative from the High Court of Manipur, District & Sessions Court Ukhrul and all other concerned on 26-10-2017 but due to unavoidable circumstances could not be done.

Whereas, the Registrar General, High Court of Manipur has requested the Chief Secretary, Manipur vide letter No.HCM/Misc.-89/2013-A and E/3226 dated 17.03.2018 to remove encroachers and obstructions in the constructions of boundary wall of the Sessions Court Complex.

Now, therefore, it is required that the allotted area be demarcated and handed over after receipt of the token Land premium (already fixed by State Government) as per the calculation of the demarcated area. Further, if any encroachment /obstruction in the allotted area is found during demarcation, the same has to be removed after following the due process.

The whole exercise of demarcation, encroachment removal etc. would be carried out under the over-all supervision of SDO, Ukhrul, who would inform all concerned and requisition the experts from the DS & LR for the same. The whole exercise of demarcation, removal of encroachment/obstructions and handing over of the allotted land should be completed within four week.

Sd/-

(Dr. Harmit Singh Pahuja)

Deputy Commissioner, Ukhrul. "

Today, neither the Government nor any other party was able to give any demarcation order. However, Mr. Ajmal Hussain, learned counsel appearing for the respondent No.6 produces a proceeding of the Director, Settlement and Land Records, Manipur dated 18th July, 2018 along with one line drawn map with measurement. It is stated that the proceeding of the Director, Settlement and Land Records, Manipur dated 18th July, 2018 has been sent to the District Judge, Ukhrul.

Registrar General, High Court is directed to call for the official communication dated 18th July, 2018, file No. 100/11/Rev/DSL.R.2018 (Pt) immediately. In the meanwhile, the Deputy Commissioner, Ukhrul and SDO, Ukhrul along with the Director, Settlement and Land Records, Manipur will hold a meeting with the Administrative Judge for Ukhrul District for the purpose of resolution of the issue relating to allotment and demarcation of land for construction of District Court complex, Ukhrul. We also take note of the fact that the allotment order has clearly stated that the mosque which is existing in a land area of 40 ft x 32 ft. is excluded from the allotment to the District & Sessions Court Complex, Ukhrul.

In the light of the above, the above mentioned officers are directed to attend the

meeting with the Administrative Judge, Ukhrul District on 23.7.2019 at 4.00 pm at the High Court Premises.

A copy of this order be issued to the Deputy Commissioner, Ukhrul and SDO, Ukhrul, the Director, Settlement and Land Records, Manipur and also to the District Judge, Ukhrul. All officials should bring all relevant back files and maps. Registrar General will also put up the details /files before the Administrative Judge, Ukhrul and submit a report prepared by the Registrar General.

List the matter on 24.7.2019."

[6] The Director, Settlement & Land Records, Manipur submitted a field enquiry/ demarcation report dated 18th July, 2018 along with a map which is also line drawn and it reads as below:-

"DIRECTORATE OF SETTLEMENT & LAND RECORDS; MANIPUR

No. 100/11/Rev/DSL/2018(pt)

Imphal, the 18th July, 2018

To,

The Deputy Commissioner

Ukhrul District, Manipur

Subject:- Submission of the field enquiry/ demarcation report at Old SDO Complex Ukhrul allotted to the District Session Court Complex at Ukhrul District.

Sir,

As per resolution adopted in the meeting held in the office chamber of the Hon'ble Minister, Law and Legislative Affairs, Manipur, a demarcation/spot enquiry of the land allotted in favour of the District Session Court Complex, Ukhrul was held on 12/7/18 by the field staffs of this office in co-operation with the district administration, Ukhrul, and the finding of the demarcation, as submitted by the field staffs, are given as follow:-

1. That the demarcation is based on trace map under Dag Nos. 2214, 2219, 2217 and 2218 of Sheet No.12 of the Ukhrul Small Town.
2. That that land under C.S. Dag No.2214 and 2219 were allotted in favour of the District Session Court, Ukhrul as per Government conveyed letter No. 21/374/2015(R) dated 1/12/2015 excluding an area of 40'X 32'(Feet) of the land which is already allotted in favour of Massajid Committee, Ukhrul, which is marked as "B in red ink" in the traced map.
3. That, the demarcation/ field enquiry conducted has found an area of 1.285 acres without the allotted area to Massajid Committee, Ukhrul. This found are is covered by Dag No. 2214, 2219, 2217, 2218 and 2233 of Sheet No 12 of Ukhrul small Town.

4. That, the parts of the area under Dag No. 2217 and 2218 (road) having a total area of .33 acres which is marked as "F in red ink" in the traced map are not included in the allotment order but included in the schedule of the allotted land and the C.S. Dag No 2233 (P) with an area of .05 acres which is included in the demarcation as mark "G in red ink" in the trace map is a private land and is not been included in the land allotted for the District Session Court Complex, Ukhrul

5. That, as per finding of the demarcation/ spot enquiry, the area encroached by the private parties in the land allotted to the District Court Session Complex, as per Schedule of allotted land, is 0.7 acres and it is marked as "E in red ink" in the trace map.

6. A trace map showing physical possession, two sketched maps are also enclosed for kind and ready reference.

The above information is submitted for kind information and necessary action.
Enclosed:- As above

Yours faithfully

Sd/-

(Ng. Norenkumar Singh)

Director

Settlement and Land Records, Manipur"

[7] In this case, 4th respondent has filed counter-affidavit along with documents. Respondent No.2 has filed an affidavit dated 16th August, 2018 and the respondent No.6 has also filed an affidavit dated 24.11.2018.

Another affidavit filed by the respondent No.1 on 2nd May, 2019 and the respondent No.4 has filed an additional affidavit dated 15th July, 2019.

[8] From the pleading of either sides, it is evident that the land allotted to the District & Sessions Court Complex, Ukhrul is excluding the land allotted to the Mosque. In such circumstance, the issue is whether the petitioners plea for cancellation of the allotment and for other reliefs as stated above should be considered in the Division Bench. Since the issue is in relation to the interpretation of the provisions of the Manipur Land Revenue & Land Reforms Act, 1960 under which the allotment was passed, namely, the allotment order dated 13th September, 1995 and it is extracted as below:-

"ANNEXURE-P/3

Government of Manipur

SECRETARIAT:REVENUE DEPARTMENT

.....

ORDERS BY THE GOVERNOR: MANIPUR

Imphal, the 13th September, 1995

No. 23/31/95-R : In exercise of the powers conferred under section 14(2) of the M.L.R. and L.R. Act, 1960 read with Rule 18 of Manipur Land Revenue and Land Reforms (Allotment of Land) Rules, 1962 the Governor of Manipur is pleased to allot land measuring an area of 40 'X 32 ' Sq. ft. specified in the schedule below in favour of the Secretary, Masjid committee, Ukhrul for construction of a Mosque at Ukhrul Hqrs.

SCHEDULE

North : Government Quarter

South : Government Quarter

East : Approach road

West : Private House

2. The allotment is made subject to the following conditions.

(i) The allottee shall pay the amount of premium as may be fixed by the Deputy Commissioner, Ukhrul within 3 (three) months. The amount of premium shall be credited to Major Head-0029 Land Revenue on behalf of the Deputy Commissioner, Ukhrul.

(ii) The concerned SDO/SDC shall demarcate the land and hand over the land to the allottee after execution of deed of allotment had been completed with the Dy. Commissioner, Ukhrul on behalf of the Government of Manipur.

(iii) In the event of the land being used for a purpose other than that for which it has been allotted, or the allottee has committed a breach of any conditions of allotments, the deed shall be liable to be resumed and further action as laid down under Rule 18 Sub-Rule (iii), (iv) and (v) of M.L.R and L.R. (Allotment of land) Rules, 1962 will be proceeded.

By orders & in the name of Governor.

Sd/-

(Annayok J. Tayeng)

Commissioner (Revenue) to the

Government of Manipur "

The same has to be considered in the light of the provisions of law. Therefore, the petition filed as Public Interest Litigation No.15 of 2018 shall be converted into a writ petition and listed before the appropriate Bench for hearing the matter on merit. All the parties will have a right of hearing and if aggrieved, will have a right of appeal. The pleading in so far as the case is concerned is almost over.

The contesting respondents have filed their reply affidavits and therefore, we direct the Registrar (Judl.) to re-number the PIL No.15 of 2018 as a regular writ petition and list it for hearing before the appropriate Single Bench after taking appropriate administrative orders.