
(2011) 01 GAU CK 0028
In the Gauhati High Court
Case No : Writ Petition (C) No. 366 of 2010

Youth Welfare Front and Another

APPELLANT

Vs

State of Manipur and Others

RESPONDENT

Date of Decision : 04-01-2011

Acts Referred:

Citation : (2011) 2 GLT 263

Hon'ble Judges : T. Nandakumar Singh, J

Bench : Single Bench

Advocate : A. Romenkumar and H. Prabirkumar, for the Appellant; H. Ishwarlal, Shillori and Jagat, for the Respondent

Judgement

T. Nandakumar Singh, J.—Heard Mr. A. Romenkumar, learned Counsel for the Petitioners, Mr. H. Ishwarlal, learned Counsel appearing for the Respondent No 4 as well as Mr. Jagat, learned G.A. appearing for the Respondents 1 to 3 respectively.

2. It is the case of the writ Petitioner that a portion of the Sarkari Leirak (Public Road) covered by Dag No. 1160 (old)/7023 (New) of the revenue village 85-Sagolband had been included in the land of late Heigrum Nityai Singh having the patta No. 1577 (old)/2762 (New) of the village No. 85-Sagolband. The said patta i.e. patta No. 1577 (old)/2762 (New) admittedly had two Dags, i.e. Dag No. 1006(Old)/7005 (New) having the area of .4 acre and Dag No. 1012 (Old)/7020 (New) having the area of .28 acre, total area of the said patta is .32 acre equivalent to .1295 hectare, but subsequently the area of land covered by the said patta No. 1577 (Old)/2762 (New) having only two Dags, i.e. Dag No. 1006 (Old)/7005 (New) and Dag No. 1012 (Old)/7020 (New) had been increased by an area of .0575 hectare and it is the further case of the writ Petitioner that the said area of .0575 hectare had been increased by adding another Dag, i.e. Dag No. 1160 (Old)/7023 (New), i.e. Sarkari Leirak (Public Road) because of an order passed by the A.S. & S.O. (H.Q.) dated 14.11.86 in Revenue Misc. case No. 166/A.S. & S.O. (H.Q./1986. Basing on the above assertions and allegations, the

present writ Petitioner filed the writ petition for directing the Respondents 1, 2 and 3 to correct the area mentioned in the said Jamabandi patta recorded in the name of late Heigrujam Nityai Singh and also for a direction to the State Respondent to evict the Respondent No. 4, who is the successor-in-interest of Heigrujam Nityai Singh from the said portion of the Sarkari land (Public Road) which had been added in the patta land covered by patta No. 1577 (01d)/2762 (New) of Village No. 85-Sagolband.

3. The Respondent No. 4 has filed affidavit in-opposition wherein it is stated that through mistake the Survey officials during survey operation had wrongly recorded the area of his patta land as .1295 hectare equivalent to .32 acre and later on the mistake in recording the area of his patta land in the Jamabandi had been corrected vide order of the A.S. & S.O. (H.Q.) dated 14.11.86 (16.11.86) passed in Rev. Misc. Case No. 166 A.S. & S.O. (H.Q.)/86. But the question is while correcting the mistake in recording the area, how had one more new Dag been added in the patta land of Heigrujam Nityai Singh?

4. After hearing the learned Counsel appearing for the parties, it appears that one more Dag i.e. Dag No. 1160 (Old)/7023 (New) having the area of .0575 hectare had been added in the said patta land of late Heigrujam Nityai Singh.

5. From the submission of the learned Counsel appearing for the parties and also perusal of the revenue records available in the writ petition, it appears that the said Dag, i.e. Dag No. 1160 (Old)/7023 (New) is Sarkari Leirak (Public Road), As there is serious disputed question of fact as to whether the said patta land of Heigrujam Nityai Singh had later on included a portion of the Sarkari land covered by Dag No. 1160 (Old)/7023 (New) of Revenue Village No. 85-Sagolband, this Court passed an order dated 30.7.10 in the present writ petition, operative portion of which read as follows:

30.7.10

The issues involved in this case for determination are whether the occupation of the land by the Respondent No. 4 is within or beyond the limit of his family land and whether any allotment has been made in favour of the Respondent No. 4 in respect of the land which is beyond the boundary of the land of the Respondent No. 4.

It is not a matter where the writ Court can easily pass order as prayed for unless report of the Director of Settlement and land records is made available before the Court with regard to the status and boundary of the land under the occupation of the Respondent No. 4. In this view of the matter, the Director of Settlement and Land Records, Govt. of Manipur is directed to cause a demarcation of the area of the land under Patta No. 1577 (2762), Dag No. 7023 of Village No. 85 Sagolband by competent revenue officers) within a period of one month from the date of receipt of a certified copy of this order and thereafter, such report may be submitted before this Court.

6. Pursuant to the order of this Court dated 30.7.10, the learned Director of Settlement and Land records demarcated the land under Patta No. 1577 (Old)/2762 (New) and submitted a report dated 4.9.10 which read as under:

To The Registrar, Gauhati High Court, Imphal, Manipur.

Ref: WP(C) No. 366 of 2010

Shri A. Surchandra Singh v. State of Manipur and 3(three) Ors.

Sir,

In compliance of the Hon''ble High Court's Order dated 30.07.2010 passed in WP(C)No. 366 of 2010 necessary sport enquiry cum demarcation for the suitland was conducted by the field staff and reported that as per old land records of 1960 maintained by this Directorate it is clearly seen that Patta No. 1577 (Old) in respect of 85/Sagolband has two Dags i.e. 1006& 1012 having a total area of .04 + .28 = .32 acre recorded in the name of Shri Heigrujam Nityai Singh S/o. (L) Bira Singh of Sagolband Thangjam Leirak (copy of Jamabandi enclosed as Annexure-I). Dag No. 1160 (Old) measuring an area of .40 acres is found recorded as Sarkari Leirak (copy of Dag Chitha enclosed as Annexure-II). And as per new land records of 1986-1987 Dag No. 7023 (New) corresponding to old Dag No. 1160 measuring an area of .0575 hectare is found recorded as Sarkari Leirak though the said Dag has been prepared Jamabandi in the name of Shri Heigrujam Nityai Singh s/o. (L) Bira Singh of Sagolband Thangjam Leirak vide Revenue Misc. Case No. 116/ASO-HQ/1986 (copy of Dag Chitha cancelled and uncanceled enclosed as Annexure-III). From the said Dag, a portion of land measuring an area of .0458 hectare has been made partitioned to Dag No. 7023/7237 vide Misc. Case No. 14/ASO-V/1998 and kept the status of land as Sarkari Khas (copy of Dag Chitha enclosed as Annexure-IV). Now, the suitland has been physically possessed by Shri Heikrujam Bhubon Singh, s/o (L) Heigrujam Sukadev Singh by constructing (sic) dwelling pucca structure/building (photographs showing nature of possession are also enclosed as Annexure-V). Trace map indicating Dag Nos. 1006, 1012 & 1160 (Old) and 7023 & 7023/7237 (New) are also enclosed for reference as Annexure-VI.

Yours faithfully,

Copy to:

- 1) The Commissioner (Rev.), Govt, of Manipur for kind information.
- 2) The Collector/D.C. Imphal West District for kind information.

7. Mr. Ishwarlal, learned Counsel for the Respondent No. 4 strenuously contends that there is chequered history in recording the right area of the said patta land, i.e. patta No. 1577 (Old)/2762 (New) of the village No. 85-Sagolband. It is the further submission of Mr. Ishwarlal that still a case, i.e. Tribunal Revenue Revision Case No. 42/10 is pending before the learned Revenue Tribunal.

8. To the contra, Mr. A. Romenkumar, learned Counsel appearing for the Petitioners contends that the case of the Respondent No. 4 in the said Revenue Revision case was only for not giving opportunity to the Respondent No. 4 while passing the order dated 25.4.06 by the Survey and Settlement Officer-II Lamphelpat in Revenue Misc. Case No. 2-A/S&S.O.-1/2000. Mr. Romenkumar further contends that even if the said Revenue Revision case No. 42/10 is allowed, the case is to be sent down to the Survey & Settlement Officer for hearing. As such, it is his submission that Tribunal Revision Case No. 42/10 has no merit; but it was filed only on technical ground.

9. Be that, as it may, on perusal of the report submitted by the Director of Settlement and Land Records and the revenue records available in the writ petition, it is clear that the area of the said patta land of Heigrujam Nityai Singh had been increased by some area. But question to be decided is from where the new area comes? The dispute between the parties is that, according to the writ Petitioner a portion of the Sarkari Leirak covered by Dag No. 1160 (Old)/7023 (New) of Village No. 85-Sagolband had been added in the said patta of Heigrujam Nityai Singh, but according to the Respondent No. 4 the mistake in recording the correct area of the patta land of Heigrujam Nityai Singh had simply been corrected by recording the right area.

10. As stated above, it is the revenue authority to cause an enquiry to find out from where a new area of .0575 hectare had been included in the said patta of Heigrujam Nityai Singh. Over and above it appears that new Dag has also been added in the said patta of Heigrujam Nityai Singh. In that case, how had the new Dag been added?

11. In the above factual background, this writ petition is disposed of by directing the Revenue Tribunal to dispose of the said Tribunal Revenue Revision Case No. 42 of 2010 as expeditiously as possible so as to enable the Director of Settlement to conduct an enquiry, keeping in view of his report dated 4.9.10 which has been quoted above, as to whether a portion of Sarkari Leirak covered by Dag No. 1160/7023 had been included in the said patta land of Heigrujam Nityai Singh and in case a portion of the Sarkari Leirak had been included in the patta land of Heigrujam Nityai Singh, necessary steps should be taken up for evicting the successor-in-interest of Heigrujam Nityai Singh from the said portion of Sarkari Leirak/Sarkari land.

12. It is made clear that learned Director of Settlement & Land Records Manipur should give ample opportunity to both the parties to put up their respective cases while making the enquiry.

13. The learned Revenue Tribunal is to dispose of the Revenue Revision Case No. 42 of 2010 within a period of one month from the date of receipt of this order and thereafter the learned Director of Settlement & Land Records is to complete the said enquiry and follow up actions within 3(three) months from the date of disposal of the Tribunal Revenue Case No. 42 of 2010.