

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR,
TRIPURA, MIZORAM AND ARUNACHAL PRADESH)

AIZAWL BENCH: AIZAWL.

WRIT PETITION (C) No. 6 of 2012

Shri F.Liandawla
S/o Sawiluaia (L)
R/o Zonuam, Aizawl

... Petitioner

-Versus-

1. The Union of India represented by the
Secretary to the Govt. of India,
Ministry of Home Affairs, New Delhi.
2. The Director,
Government of India,
Ministry of Home Affairs, New Delhi.
3. The Joint Secretary, Govt. of India,
Ministry of Home Affairs (N.E. Division),
North Block, New Delhi.
4. The Defence Estate Officer,
Guwahati Circle,
P.O. Silpukri, Guwahati – 3.
5. The State of Mizoram represented by
the Chief Secretary to the Govt. of Mizoram.
6. The Secretary to the Govt. of Mizoram,
Land Revenue & Settlement Department,
Aizawl.
7. The Director,
Land Revenue & Settlement,
Mizoram, Aizawl.

8. The Lai Autonomous District Council
Represented by the Senior Revenue Officer,
LADC, Lawngtlai.

..... ***Respondents***

B E F O R E
THE HON'BLE MR.JUSTICE UJJAL BHUYAN

For the petitioner	:-	Mr. C. Lalramzauva, Sr. Adv. Mr. A.R. Malhotra, Advocate Mr. Zoramchhana, Advocate Mr. K. Laldinliana, Advocate Ms. Venus, Advocate Ms. H. Zomuankimi, Advocate Ms. Lalramsangzuali, Advocate.
For the respondents	:-	Mr. Vanlalnghaka, CGC for respondents 1 to 3. Mr. Lalsawirema, GA for respondents 5 to 8
Date of hearing	:-	9.01.2013
Date of Judgment	:-	10.01.2013

J U D G M E N T A N D O R D E R (O R A L)

Heard Mr. A.R. Malhotra, learned counsel for the petitioner. Also heard Mr. Vanlalnghaka, learned Central Government Counsel for respondents 1, 2 and 3 (name of respondent No. 4 has been struck off as per Court's order dated 17.5.2012) and Mr. Lalsawirema, learned Government Advocate, Mizoram for respondents 5 to 8.

2. Case of the petitioner is that he is the owner of the plot of garden land which was originally allotted to him by the erstwhile Chief of Tuithumhnar in the year 1951. It was subsequently converted into revenue pass in the year 1974 and thereafter into garden pass on 8.11.1999. Petitioner has alleged that the aforesaid land is under forceful and continuous occupation of paramilitary forces since the year 1967. It is the grievance of the petitioner that he has not been paid any rental compensation for occupation of his land.

3. Petitioner had taken up the matter with the authorities of the Government of Mizoram. The Revenue Department, Government of Mizoram had informed respondent No. 2 vide communication dated 11.3.2002 that after spot verification of the claims relating to compensation for occupation of land by security forces, a total of 1694 claims were found to be genuine for which total amount of compensation assessed was Rs. 37,88,08,152/-. The list included the claim of the petitioner in respect of whom compensation was assessed at Rs. 17, 15, 420/- for the period of occupation from 1967 to August, 1986. Thereafter, several committees were constituted to consider payment of compensation for occupation of private lands by security forces for the period from 1966 to 1986 and thereafter for the payment of rental charges for the period from August, 1986 onwards but no payment has been received by the petitioner. The Revenue Department, Government of Mizoram again wrote to the respondent No. 3 by

communication dated 22.4.2010 requesting the latter to look into the matter and to release the compensation amount at an early date. The name of the petitioner was again included in the list of claimants whose claim was assessed by the Government as indicated above. However, no payment has been received by the petitioner till date.

4. Aggrieved, petitioner has filed the present writ petition seeking a direction to the respondents to release rental compensation amounting to Rs. 17,15,420/- along with applicable interest thereon and for a further direction to make assessment of rental compensation for the period from September, 1986 onwards.

5. Respondents 1 to 3 have filed their counter affidavit wherein they have questioned the genuineness of the claim of the petitioner. The stand taken is that the land claimed by the petitioner to have been occupied by the security forces and the land occupied by the Assam Rifles is not the same. The said respondents have denied occupation of the land of the petitioner.

6. The State respondents in their counter affidavit have, however, admitted the claim of the petitioner. It is stated that rental charges amounting to Rs. 17,15,420/- for the period from the year 1967 to August, 1986 for an area of 6,48,30 Sq. Ft. in respect of petitioner's land at Tuithumhnar has been submitted to the Ministry of Home Affairs, Government of India for sanction along with other claims totalling Rs. 48,43,17,870 vide communication dated 29.09.2010. No payment could be

made to the petitioner as no sanction has been received from the Ministry of Home Affairs, Government of India. It is further stated that assessment for the period beyond 1986 will be prepared after the aforesaid amount is sanctioned by the Ministry of Home Affairs, Government of India, provided petitioner's land is still under occupation of the security forces.

7. The petitioner in his rejoinder affidavit to the counter affidavit filed by the respondents 1 to 3 has reiterated the contentions advanced in the writ petition. He has, however, stated that his land was utilized by the security forces from the year 1967 till the year 2005 as a dropping zone and as a firing range.

8. Mr. Malhotra, learned counsel for the petitioner submits that for depriving the petitioner from enjoying his land in the manner indicated above, the respondents are liable to pay compensation to the petitioner. He submits that the claim of the petitioner is genuine, which has been verified by the State Government and on such verification, compensation for the period upto 1986 has been assessed at Rs. 17,15,420/-. He, therefore, prays that necessary direction may be issued to the respondents for release of the aforesaid amount to the petitioner.

9. Learned Central Government Counsel has disputed the contention of the learned counsel for the petitioner and submits that the claim of the petitioner is disputed. In such circumstances, he submits that the Court may not issue direction for release of any amount to the petitioner.

10. Learned State counsel on the other hand, submits that considering the nature of the grievance expressed and the previous orders passed by this Court in similar matters, the Court may consider directing the authority to constitute a joint verification team to examine the claim of the petitioner and on such examination, if the claim is found to be genuine, payment of compensation may be made to the petitioner.

11. Submissions made have been considered.

12. While the petitioner has asserted that his land was utilized by the security forces from 1967 till 2005 as dropping zone and firing range as a result of which he was deprived from enjoying his lawful property, the said contention is, however, disputed by the Central authorities. The State authorities on the other hand, have contended that they have verified the matter and have found the claim of the petitioner to be genuine and entitled to the amount of compensation as indicated above for the period upto 1986. It is the further stand of the State respondents that on sanction of the aforesaid amount, they would examine the claim of the petitioner for the period beyond 1986.

13. It is seen that in a number of similar matters, this Court had directed the authorities to verify ownership of the land as well as the factual position regarding occupation of the land by a team of officers comprising representatives of all the sides.

14. Considering the matter in its entirety, this Court is of the view that it would be in the interest of justice if a similar direction is also issued in the present case.

15. Accordingly, this writ petition is disposed of with a direction to the respondents to make necessary verification to ascertain the veracity of the claim of the petitioner. Such verification shall be carried out by a committee to be constituted with the following members :-

- 1) Director (NE-II), Ministry of Home Affairs, Government of India or his representative;
- 2) Secretary to the Government of Mizoram, Land Revenue and Settlement Department or his representative;
- 3) Deputy Commissioner, Lawngtlai district or his representative;
- 4) The Commandant of the 28th Assam Rifles, Lunglei or his representative;
- 5) Petitioner or his representative.

The Deputy Commissioner, Lawngtlai shall be the coordinating authority.

16. The committee so constituted shall make necessary verification within a period of 4 (four) months from the date of receipt of a certified copy of this order by the Deputy Commissioner, Lawngtlai, who shall thereafter submit its report to the Government of Mizoram in the Land Revenue and Settlement Department. Based on the report, consequential steps shall be

taken up by the respondents within 3 (three) months within a period of 3 (three) months from the date of receipt of the report.

17. Writ petition stands disposed of.

JUDGE

Sushil