

High Court of Meghalaya

Harijan Panchayat Committee , vs . State Of Meghalaya & Ors. on 15 February, 2019

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Serial No. 11

Regular List

HIGH COURT OF MEGHALAYA  
AT SHILLONG

WP(C). No.218 of 2018

Date of Decision : 15.02.2019

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Harijan Panchayat Committee , Vs. State of Meghalaya & Ors.  
Punjabi/Harijan Colony,  
Bara Bazar, Shillong & Ors.  
Coram: Hon'ble Mr. Justice S.R.Sen, Judge (Oral)

Appearance:

For the Petitioner/Appellant(s) : Mr. N.Benipal, Adv.  
Mr. H.S.Hora, Adv.

For the Respondent(s) : Mr. A.Kumar, AG with

Ms. R.Colney, GA for R 1,2,5,6&8.

Mr. K.S.Kynjing, Sr. Adv. with Mr. L.Shongwan, Adv. for R4.

Mr. K.Barua, Adv. for R 3.

1. Heard Mr. N.Benipal, learned counsel on behalf of the petitioners as well as Mr. A.Kumar, learned AG assisted by Ms. R.Colney, learned GA on behalf of the respondents No. 1, 2, 5, 6 & 8, Mr. K.S.Kynjing, learned Sr. counsel assisted by Mr. L.Shongwan, learned counsel on behalf of the respondent No. 4 and Mr. K.Barua, learned counsel on behalf of the respondent No. 3.

2. The petitioner's case in a nutshell is that:

"The community of Punjabi Colony, Bara Bazar , Shillong-2, is a colony of Mazhabi Sikh and 'Masih' people who are Minority Community as per the National Commission for Minorities Act-1992 and these people have been ancestrally resident in the colony since prior to 1863. These people have been voters from the same colony and the same parliamentary and assembly constituencies ever since the first elections of 1951. There have been several representations, applications and personal meetings with the Syiem and his Myntris praying for land rights by entering the

names of the residents in the record of rights as maintained by the Syiem and his Dorbar and the said Dorbar, acting within the frame works of law and the custom of the territory of the Syiemship, issued Pattas to five religious and one educational institution in the colony and kept pending the other 218 applications of the residents, u/s 28 of the Meghalaya Land and Revenue regulation- 1972, for registration of their tenure in the record of land rights and to issue Patta, for reasons best known to the Syiem and His Dorbar. In fact the Respondents, in collusion/connivance and jointly and/or severally have been attempting to evict these people from their ancestral homestead on several occasions with heinous, nepharious and gruesome means, to the extent of setting the colony ablaze, so as to legalise the false claim of the Shillong Municipal Board as the owner of the land. Such attempt was repeated recently on 31st May, 2018 and the days that followed saw various hue and cry by the Khasi tribal community and the High Level Committee deceptively formulated by the Respondents over the unjust claim for relocation of the colony and to dispossess the minority community from their ancestral homestead in the Punjabi colony, Bara Bazar, Shillong-2 and thereby the Respondents have jointly and / or severally caused infringement of the fundamental rights u/Art. 14, 19, 21, 25 and constitutional right u/Art. 300A of the Constitution of India.

The state respondent have constituted an High Level Committee for relocation of the Petitioners-Community dehors to the principles of law.

Hence, finding no other alternative remedy, the petitioners have approached this Hon'ble High Court with the instant writ petition u/Art. 226 of the Constitution, praying for adequate remedy."

3. Learned counsel for the petitioners, Mr. N. Benipal submitted that the petitioners have been residing in that area for centuries back and the land has been allotted to them by the Syiem of Myllem (respondent No. 4), so the government cannot just evict them forcefully without any rhyme or reason. He also submitted that thereafter the petitioners' association had moved 218 applications for issuance of patta in the year 2006 and requisite fees was also submitted, but till date no patta was issued, except for Gurudwara and School.

4. Learned AG, Mr. A.Kumar submitted that a High Level Committee was constituted to advise the government as to how and in what manner the dispute can be settled as there was law and order problem created by some NGOs.

5. On the other hand, learned Sr. counsel for the respondent No. 4, Mr. K.S.Kynjing submitted that no patta was issued to the individual member of the petitioners' association or committee till date.

6. After hearing the submission advanced by the learned counsels for the parties, I find that this Court is unable to decide the matter in its finality and I am of the view that the matter is purely civil in nature, so it needs to be addressed by the Civil Court after taking appropriate evidence on record and giving fair and equal opportunity to both the parties to be heard. It is a settled principle of law that nobody can be removed or evicted without due process of law even if he is illegally settled or

legally settled.

7. Therefore, I direct the government and all the other agencies not to disturb the petitioners in any manner and if at all they want to evict or remove them, they are to approach the Civil Court and the Civil Court will pass a proper judgment after giving equal opportunity to both the parties and decide the title in accordance with law.

8. With this observation and direction, this instant petition stands disposed of with liberty to approach the High Court, if necessary in future.

District administration is directed to arrange security to the petitioners and to maintain law and order.

(S.R.Sen) JUDGE Meghalaya 15.02.2019 "S.Rynjah PS"