

GAHC020002742026



**THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL
PRADESH)
KOHIMA BENCH**

Case No. : WA/17/2026

SHRI NOKMAN KONYAK
S/O LATE WANGSHU KONYAK, R/O TIZIT TOWN, MON, NAGALAND - 798602

VERSUS

THE STATE OF NAGALAND AND 5 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF NAGALAND,
KOHIMA - 797001 2:THE COMMISSIONER AND SECRETARY
HOME
NAGALAND
KOHIMA

3:THE DEPUTY COMMISSIONER
MON
NAGALAND.

4:THE ADDITIONAL DEPUTY COMMISSIONER
TIZIT
MON
NAGALAND

5:THE HEAD DOBASHI
TIZIT
C/O ADDITIONAL DEPUTY COMMISSIONER
TIZIT
NAGALAND.

6:SHRI N. SHOMWANG @ SHOMWANG WANGHAM
S/O NOKZAM WANGHAM - CHIEF ANGH JABOKA VILLAGE
MON
NAGALAND

Advocate for the Petitioner : C. T. JAMIR, SR. ADV,

Advocate for the Respondent : GOVT ADV NL,

BEFORE
HON'BLE MR. JUSTICE KALYAN RAI SURANA
HON'BLE MR. JUSTICE PRANJAL DAS

ORDER

Date : 08.05.2026

(K.R. Surana, J)

Heard Mr. C.T. Jamir, learned senior counsel, assisted by Mr. I. Imchen, learned counsel for the appellant. Also heard Mr. N. Angami, learned Senior Govt. Advocate appearing for respondent nos. 1 to 4.

2) By filing this intra-court appeal, the appellant, who is the petitioner in W.P.(C) 207/2016, has assailed the impugned judgment and order dated 23.03.2026 passed in W.P.(C) 88/2022 in common with W.P.(C) 58/2017 and W.P.(C) 88/2022.

3) In brief, the case of the appellant is that his father, L. Wangshu Konyak (since deceased) was given a *Special permit For Farm Land* at Tizit vide Note/ communication No. 8487-90 dated 29.03.1971. While the petitioner was a minor, his father died in the year 1974. Taking advantage of the situation, several persons tried

to encroach the land covered by *special permit*, but the District Administration evicted those encroachers vide note/ communication dated 11.04.1975, thereby upholding the *special permit* issued to the deceased father of the appellant. In course of time, the District Administration started issuing allotment orders to Government Departments and private individuals over parts of the land covered by the said *special permit*. It is projected that the District Administration remained silent despite several representations submitted by the appellant. Thereafter, the appellant filed a representation before the Chief Secretary to the Govt. of Nagaland and the said authority by a note/ communication dated 18.07.1996, recorded recognition of the assistance that the father of the appellant had rendered to the District Administration and observed that without his or his successor's consent, no land should have been allotted to any person or the Government offices and by observing that the administration should always honour the commitment given by the previous administration, directed the District Administration of Mon/Tizit to conduct a special enquiry and submit a detailed report. As no steps was taken by the District Administration in terms of the said note/ communication dated 18.07.1996, by the Chief Secretary to the Govt. of Nagaland, the appellant had approached this Court by filing a writ petition, which was disposed of by order dated 05.08.2014, passed in W.P.(C) 204(K)/2012, directing the Deputy Commissioner, Mon to hold a special enquiry as directed by the Chief Secretary to the Govt. of Nagaland within a period of three months and to forward a report to the Chief Secretary to the Govt. of Nagaland.

4) Thereafter, in the special enquiry report dated

31.10.2014, it was observed that the *special permit* given to the father of the appellant was measuring 157.81 acres and in respect of the said land, the District Administration had issued 111 nos. of allotment orders from 1988 till date and moreover, the appellant had also sold/ allotted various plots of land to the private individuals and it was suggested that in order to bring an amiable settlement, the appellant be offered 200/300 square feet of land presently under his occupation and in recognition of the service rendered by the father of the appellant, either a school or a public hall in the locality be named after appellant's father. On 10.07.2015 and 31.07.2015 there were meetings between the District Administration and the appellant in connection with the enquiry report, but no final orders on the said enquiry report was passed.

5) In the meanwhile, the persons whose names were mentioned at Sl. Nos. 2 to 7 of the vacation order dated 20.10.2016, were persons to whom the appellant had given permission to live in his land temporarily. Accordingly, aggrieved by the restraining order dated 15.01.2015 and 12.10.2016, and the vacation order dated 20.10.2016, the appellant has filed W.P.(C) 207(K)/2016. This Court by an interim order dated 07.11.2016, passed in W.P.(C) 207(K)/2016, directed that the persons whose names are mentioned in the vacation order dated 20.10.2016, should not be disturbed in their peaceful possession of the land until further order of the Court. Accordingly, it is submitted that the appellant had been occupying the allotted land all throughout but as his right and possession over the allotted land was infringed, he had filed the said writ petition.

6) On such presentation of facts by the appellant, the

learned Single Judge took into consideration the stand taken by the State respondents and, amongst others, held that on a perusal of the *special permit* dated 29.03.1971, it was seen that the said document was a conditional permission given by the District Administration by which the father of the appellant was allowed to use the land solely for cultivation purpose and accordingly, it was held that the said *special permit* dated 29.03.1971 was akin to a *licence*. Accordingly, referring to the definition of *licence* as provided under Section 52 of the Indian Easements Act, 1882, it was held that the definition of the word *licence* makes it clear that no interest in the immovable property is created by grant of licence and it was only a permissive occupation given to the licensee to use the immovable property for a particular purpose. Accordingly, it was held that the said *special permit* did not confer any ownership or title to the father of the appellant over the land covered by the *special permit* which was given only to cultivate only gave temporary right to use the land for the purpose of cultivation and therefore, no transferable or heritable right would arise as a permit to cultivate is merely a personal licence without creating any right, title and interest over the land. Therefore, it was held that the permit/ licence would automatically lapse and terminates when the holder of such permit/ licence dies and the legal heirs do not get any vested right unless there is a condition in the permit itself.

7) Resultantly, the learned Single Judge had held that the appellant, merely on the basis of permit granted to the father of the appellant to cultivate, cannot claim ownership over the land, moreso, when he was not even a permit holder. It was also held that the appellant cannot raise the plea of adverse possession as the

possession was on the strength of a government permission and therefore, was not a hostile possession. It was also held that the *special permit* dated 29.03.1971 did not disclose that it was a disguised allotment. Referring to the case of *Naseem Kahnem & Ors. v. Zaheda Begum (D) by LRs. & Ors., 2024 INSC 492*, it was held that the terms of the permit would be binding on the parties and that the words used in the said *special permit* dated 29.03.1971, clearly indicated that it was purely for cultivation purpose and was never an allotment of land. By referring to the case of *Asha v. Pt. B.D. Sharma University of Health Sciences, (2012) 7 SCC 389*, it was held that the appellant had not denied the averments made in the affidavit-in-opposition filed by the State and thus, deem to have been admitted by the appellant. The learned Single Judge by referring to the allotment order dated 25.02.2020, held that the appellant has been occupying 0.67 Acre land as per said allotment order, which not assailed and it meant that the appellant had accepted the allotment given to him. It was further observed that the paragraph nos. 1 to 5 of the judgment and order dated 05.08.2014, passed in W.P.(C) No. 204(K)/2012, was only the narration of the pleadings of the appellant and not a finding of the Court. Hence, in light of the elaborate discussions made by the learned Single Judge in the impugned order dated 23.03.2026, all the three writ petitions were dismissed.

8) The learned senior counsel for the appellant had meticulously referred to all the documents appended to the memo of appeal and it was submitted that the Chief Secretary to the Govt. of Nagaland, in the note/ communication dated 18.07.1996, understood and accepted the said *Special Permit For Farm Land* at

Tizit, issued on 29.03.1971 to be an allotment order to the father of the appellant and had gone to the extent of observing that the District Administration should honour the commitment given by the previous administration to keep its image in the eyes of people. Accordingly, it was submitted that the said communication made it clear that the land was actually allotted to the deceased father of the appellant for the assistance he had rendered to the administration of the people and acknowledge the right of inheritance of the appellant over the land and it was observed that without the consent of his successor, no land should have been allotted to any person or government department. It is further submitted that in the first round of writ petition, this Court by order dated 05.08.2014, passed in W.P.(C) 204(K)/2012, allowed the writ petition by directing the Deputy Commissioner, Mon to hold an enquiry as directed by the Chief Secretary to the Govt. of Nagaland; and in the second writ petition of the petitioner being W.P.(C) 58/2017, this Court by an interim order dated 09.05.2017, stayed the notice/ order dated 13.04.2014, issued by the DB Court, Tizit, directing one Mr. Wangdun Konyak to vacate the house and remove the materials from the said site/ land before 13.05.2017. It may be stated that as per statement made in W.P.(C) 58/2017, the appellant had admittedly allotted a plot of land to the said Wangdun Konyak, who had constructed a temporary house over the land. It is submitted that in the third writ petition, being W.P.(C) 207/2016, the persons whose names were mentioned at Sl. Nos. 2 to 7 of the vacation order dated 20.10.2016, were persons to whom the appellant had given permission to live in his land temporarily and by an interim order dated 07.11.2016, the operation of the said

vacation order dated 20.10.2016, challenge in the said writ petition was stayed. Accordingly, it is submitted that the appellant had been occupying the allotted land all throughout but as his right and possession over the allotted land was infringed, he had filed W.P.(C) 88/2022.

9) It was submitted that the Chief Secretary to the Govt. of Nagaland is the highest Executive Authority in the State and when the said authority had recognized the right of inheritance of the appellant, the impugned order dismissing the writ petition was not sustainable and bad in law and on facts. It is further submitted that such right of the appellant was recognized all throughout for 55 years, ought not to have been disturbed by dismissing the writ petition. Accordingly, it was submitted that the appeal be admitted for hearing.

10) Per contra, the learned Senior Govt. advocate has made his submissions in support of the impugned order.

11) As much reliance is placed on the *Special Permit For Farm Land* at Tizit dated 29.03.1971 and the note/ communication bearing No. NGO-1/96 dated 18.07.1996, issued by the Chief Secretary to the Govt. of Nagaland addressed to Deputy Commissioner, Mon, the relevant contents of the said *special permit* dated 29.03.1971 and note/ communication dated 18.07.1996 are quoted below for ready reference:

*GOVERNMENT OF NAGALAND
OFFICE OF THE ADDL. DEPUTY COMMISSIONER
MON SUB-DIVISION MON.*

SPECIAL PERMIT FOR FARM LAND AT TEJIT

Shri L. Wangshu Konyak, R.C.M. is allowed to continue cultivation of the low lying areas which he has already put under patty cultivation at Tijit. The line of demarcation will follow as follows:

1. *A straight will be drawn from a point on Sonari-Mon road as shown in the survey map till it joint another survey mark near the private track as shown in the Survey map. From the survey mark point it will run straight south till the line reaches the first line of Banana tress after which it will turn straight North-West till it comes parallel to the point marked on the stem by me on 24-5-71. Taking the last point of North-West Line a straight line should be drawn towards south crossing the marked stem till it reaches another mark on the dead tree. From this dead tree a line will continue straight for a few yards then turn south-East and join the now Jhum Area. Following the area already jhumed this year a line should joined Tejit river near the pool called chezak. Besides this area he is also allowed to continue paddy cultivation at the confluence of Tejit and been shown in the map as Besides these two areas he should vacant all the areas he has put under cultivation immediately.*

The E.A.C Mon who was with me is requested to go down and put boundary pillars with the help of Shri Wangchu and his labourer.

*Sd./- All Deputy Commissioner,
Mon Sub-Division, Mon
Nagaland.*

*NOTE/ COMMUNICATION: NO 8487-90 Date Mon the 29th
March'71*

Copy to:

- 1. The Circle officer, Tejit*
- 2. The E. A. C Mon.*
- 3. Shri C. Wangshu, Konyak, RCM*

* * * * *

GOVERNMENT OF NAGALAND
OFFICE OF THE CHIEF SECRETARY

NO. NGO-1/96

Dated Kohima, the 18th July'96

A representation has been submitted to me by L. Nokman Wangshu S/o Late Lokten Wangshu alleging that illegal encroachment has taken place in the land given to his father which he has inherited. This Special permit for farm land at Tizit was given to Late Lokten Wangshu, the then RCM and the area given to him was properly alienated. In course of time encroachments had taken place by Police Deptt. Industry Department and also by private individuals through permits given by Administration at different times. The land given to late Lokten Wangshu, the then RCM was in recognition for the assistance he has rendered to the Administration and also for Standing for the people in times of difficulty. In fact without his consent or his successor no land should have been allotted to any person or Govt. Department. It appears that no respect was shown to the permit holder who was given the farm land by Administration for recognition of his services given to the government and the people. Even the Angs of Tizit area had consented to this as the land falls within their jurisdiction.

The Administration should always honour the commitment given by previous Administration to keep its image in the eye of the people. Instead of protecting the privilege given to certain distinguished persons. If the Administration allows encroachment by individuals or Government Departments, it does not show any good images before the public.

You are hereby asked to conduct special enquiry and submit detailed report comments as early as possible.

DC : MON

* * * * *

12) From the contents of the hereinbefore quoted *Special Permit for Farm Land* at Tizit dated 29.03.1971, it is seen that the same is merely a permit allowing L. Wangshu Konyak to continue cultivation of the low-lying areas which he had already put under paddy cultivation. By no stretch of imagination, the said *special permit* can be read to mean an order of allotment of land to the father of the appellant (since deceased). Therefore, the learned Single Judge is found to have correctly appreciated and interpreted the word permit/ licence in light of Section 52 of the Indian Easements Act, 1882. The said *special permit* does not disclose the provision of law under which the same was issued and therefore, the learned Single Judge had committed no apparent error in treating the said *special permit* as a licence allowing the father of the appellant (since deceased) only to cultivate.

13) The appellant has not been able to show that he had acquired any inheritable or transferable right over the land covered by the said *special permit* dated 29.03.1971. Though the appellant projects that his father had died in the year 1974, but on attaining the age of majority and till date, the appellant had never applied for a *special permit* for farm land so as to continue with cultivation. The admission by the appellant that the District Administration had given 111 allotments to others out of the said land and the appellant's own admission of allotting a land to several persons establishes that neither he is in possession of the entire land nor he is cultivating the

land covered by the said *special permit*.

14) In this memo of appeal, there is nothing on record to show that the Chief Secretary to the Govt. of Nagaland, while making note/ communication dated 18.07.1996, had entertained any appeal or revision against any order passed by any competent authority in respect of the land covered by *special permit* dated 29.03.1971. Therefore, it is not known under which provision of law the said note/ communication dated 18.07.1996 was issued by the Chief Secretary to the Govt. of Nagaland. Therefore, when the Chief Secretary to the Govt. of Nagaland had issued a direction to the Deputy Commissioner, Mon to make a special enquiry and submit a report, it cannot be presumed that the Chief Secretary to the Govt. of Nagaland had arrived at any conclusion that the land was given to the father of the appellant because if he had any materials before him, he would definitely have referred to such materials in the note/ communication dated 18.07.1996. The appellant has not been able to show the source of power in exercise of which the Chief Secretary to the Govt. of Nagaland had issued note/ communication dated 18.07.1996.

15) Moreover, the learned Single Judge had arrived at a finding of fact that the administration had allotted 0.67 acre land to the appellant over which he had possession had arrived at an acceptable finding that the appellant had accepted the land allotment by the administration without any protest or demur. In other words, as the appellant cannot be allotted the same land which was allotted to his father (since deceased), the acceptance of

such allotment clearly indicates that the appellant had no right, title or interest on any part of the land covered by *special permit* dated 29.03.1971.

16) The learned Single Judge is not found to have committed any perversity in arriving at a finding that the *special permit* was given to the father of the appellant only for cultivation and no other purpose and therefore, by no stretch of imagination it can be accepted that the appellant had acquired any interest whatsoever on any part of the land covered by the said *special permit* dated 29.03.1971. There is no material on record to show that the appellant, through his guardian during his minority, and on becoming adult, he has been carrying out cultivation on the entire stretch of land covered by the *special permit* since the death of his father. Therefore, there is admittedly a change in the use and user of the land.

17) The appellant has not disputed but rather, admitted that he had alienated the part of the land covered by the *special permit* and after vacation notice was issued to those occupiers, the appellant, in order to assert his so-called rights, had filed W.P.(C) 207/2016 and W.P.(C) 58/2017.

18) The Supreme Court of India, in the case of *N. Ramachandra Reddy v. State of Telengana*, (2020) 16 SCC 478: AIR 2019 SC 4182, has held that while considering intra-court appeal, unless the Appellate Bench concludes that the findings of Single Judge is perverse, it shall not disturb the same. This Court, in the case of *State of Tripura v. Ramendra Nath Dey*, (2000) 3 GLT 214: (2001) 1 GLR 54: (2000) 0 Supreme(Gau) 280, has held that the

judgment of the Single Judge should be set aside or quashed only when there is patent error on the face of the record or the judgment is against the established or well settled principle of law. Moreover, in the case of *Starline Agency v. Nabajit Das, 2011 (1) GLT 710: (2011) 5 GLR 186: (2011) 0 Supreme(Gau) 149*, this Court had held that if two reasonable and logical views are possible, the view adopted by the Single Judge should normally be allowed to prevail. In the case of *Assam State Electricity Board V. Sri Surya Kanta Roy, (1994) 1 GLR 383: (1993) 0 Supreme(Gau) 190*, this Court had held that the Appellate Court will not interfere with the discretion of the court of first instance and substitute its own discretion except where the discretion has been shown to have been exercised arbitrarily or capriciously or perversity or where the court has ignored the settled principles of law.

19) In this intra-Court appeal, though the learned senior counsel for the appellant had stressfully submitted that the appellant had the right over the land covered by *Special permit* dated 29.03.1971, but the finding to the contrary by the learned Single Judge is cogent, supported by sound reasoning and in consonance with the decisions referred to in the said impugned order and therefore, acceptable. The appellant has not been able to make out a case that the impugned judgment and order is vitiated on any count whatsoever. Therefore, no case is made out by the appellant for interference in this appeal.

20) Therefore, this intra-court appeal fails and this appeal is hereby dismissed by affirming the impugned judgment and order dated 23.03.2026 passed in W.P.(C) 207/2016, in common

with W.P.(C) 58/2017 and W.P.(C) 88/2022.

21) However, as the appeal has not been admitted, the parties are left to bear their own cost.

JUDGE

JUDGE

Comparing Assistant