

GAHC040005802024



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

Case No. : Crl.Petn./54/2024

Mitan Apum and 4 Ors
Son of Shri John Apum, a permanent resident of Ngopok Village, PO and PS Mebo,
East Siang District, Arunachal Pradesh

2: Muk Apum
Age:
Occupation :
Son of Shri Mingki Apum
a permanent resident of Sigar Village
PO and PS Mebo
East Siang District
Arunachal Pradesh

3: Jonge Apum
Age:
Occupation :
Son of Late Angkir Apum
a permanent resident of Balek Village
PO and PS Pasighat
East Siang District
Arunachal Pradesh

4: Jenny Apum
Age:
Occupation :
Son of Shri Oti Apum
a permanent resident of Debin Village
PO and PS Ruksin
East Siang District
Arunachal Pradesh

5: Obang Apum
Age:

Occupation :
Son of Shri Kilong Apum
a permanent resident of Adipasi Village
PO and PS Mariyang
Upper Siang District
Arunachal Pradesh

VERSUS

The State of AP and Anr
through the PP of AP 2: The District Magistrate
Age: 0
Occupation :
East Siang District
Pasighat
Arunachal Pradesh

Advocate for the Petitioner : Muk Pertin, Senior Advocate

Advocate for the Respondent : P P of AP

BEFORE
HONBLE MR. JUSTICE KARDAK ETE

ORDER

Date : 07.05.2024

Heard Mr. M. Pertin, learned Senior counsel assisted by Ms. D. Riba, learned counsel for the petitioners.

By filing this application under Section 482 of the Cr.P.C., 1973, the petitioners have challenged the 5 (five) numbers of executive orders dated 30.04.2024, passed by the learned District Magistrate, East Siang District, Pasighat, against the petitioners in exercise of power conferred under Section 133 of Cr.P.C., whereby, it is directed and prohibited all types of construction and to remove/evict any structure and to remove all the structures and muck within 7 (seven) days, failing which appropriate provisions of law shall be invoked

against the petitioners.

Issue notice, returnable by 3 (three) weeks.

As Mr. T. Ete, learned Additional Public Prosecutor has entered appearance and accepted notice on behalf of the respondent no. 1, no formal notice is required to be served. However, requisite extra-copies of the petition be furnished to him during the course of the day.

Steps for service of notice upon the respondent no. 2 be taken by registered post with A/D as well as by usual process, within 3 (three) days.

Mr. M. Pertin, learned Senior counsel for the petitioners, submits that the impugned orders have been issued without there being any report from the Police Officer or without taking any such evidence. Therefore, submits that the orders are in violation of the provisions of Section 133 of Cr.P.C., as such, the same may be quashed by invoking the power of this Court under Section 482 Cr.P.C.

On the other hand, Mr. T. Ete, learned Additional Public Prosecutor submits that the present petition is not maintainable in view of the fact that the impugned orders issued by the District Magistrate is a final order and, if at all, the petitioners are aggrieved, they may approach the Court by filing a petition under Section 397 of the Cr.P.C.

Having considered the submissions of the learned counsels for the parties and considering that the impugned orders passed by the learned District Magistrate, East Sinag District *prima facie* appears to be not in accordance with

the requirement of the provisions of the Section 133 Cr.P.C., I deem it appropriate to stay the impugned orders dated 30.04.2024, passed by the learned District Magistrate, East Siang District, Pasighat.

Accordingly, in the interim, the 5 (five) numbers of impugned orders dated 30.04.2024, passed by the learned District Magistrate, East Siang District, Pasighat, shall remain stayed till the next returnable date.

The issue raised by the learned Additional Public Prosecutor with regard to the maintainability, shall be kept open and the same shall be deliberated on the next date.

List it after 3 (three) weeks.

JUDGE

Comparing Assistant