



GAHC040008422020



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

Case No. : WP(C) 324/2020

1:Indira Taloh
W/O SRI T. TALOH, DIKING VILLAGE, PAISGHAT, EAST SIANG DISTRICT ,
AP.

VERSUS

1:The State of AP and Others
REPRESENTED BY THE CHIEF SECRETARY,GOVT. OF AP, ITANAGAR.

2:THE DEPUTY COMMISSIONER
EAST SIANG DISTRICT
PASIGHAT
AP.

3:THE EXTRA ASSISTANT COMMISSIONER-CUM-ESTATE OFFICER
EAST SIANG DISTRICT
PASIGHAT
AP

Advocate for the Petitioner : Tony Pertin

Advocate for the Respondent : G. Ete, GA (AP)

BEFORE
HONBLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

Date : 20-11-2020

Heard Mr. T. Pertin, learned counsel for the petitioner. Also heard Ms. G. Ete,



learned Addl. Sr. Govt. Advocate appearing for the State respondents No. 1 to 3.

2. Regarding the Airport/Advanced Landing Ground and Helipad at Pasighat, East Siang District, on 05.06.2012 the Deputy Commissioner, Pasighat, East Siang District had issued the following instructions under Sub-Section(2) of Section-3 of Works of Defence Act, 1903 (7 of 1903), which is reproduced, herein below:

“ In exercise of the power conferred by Sub-Section (2) of Section-3 of works of Defence Act, 1903 (7 of 1930) and for the interest of ensuing safe air-operation in the helipads and landing grounds and to avoid encroachment thereon, the following restriction upon the use and enjoyment of land in the vicinity of Indian Air-Force Stations and institutions at ALG Pasighat, is hereby declared that such land shall be kept free from buildings and others obstruction and direct that:-

- 1. No building or structures shall be constructed/erected within the limits of 100 (one hundred) meters from the crest of outer parapet of the helipads which will extend to 900 (nine hundred) meters in case of airfield/airports or advance landing ground.*
- 2. No trees shall be planted or other structures shall be created/developed an any land within the limits of 100 (one hundred) meters from the crest of outer parapet of the helipads which will extended 900 (nine hundred) meters in case of airfield/airports or advance landing ground.”*

3. Thereafter, on 19.12.2017 the Deputy Commissioner issued a similar direction preventing construction of building beyond 7.08 meters of height within a radius of 100 meters from the edge of the runway of the ALG Pasighat. On 27.03.2019, the Deputy Commissioner again issued a similar direction. On 20.01.2020 a similar order was passed by the Deputy Commissioner preventing construction of high rise building within a radius of 500 meters of ALG Pasighat. By that order only ground floor construction was allowed.

4. Thereafter, petitioner filed an application before the Deputy Commissioner seeking permission to complete the house. On 14.07.2020 permission was granted in favour of the petitioner asking him to limit the height of the building to 7.08 meters only. Accordingly, the petitioner started construction of the house. Thereafter on 13.11.2020, EAC-cum-Estate Officer, East Siang District, Pasighat, vide Memo No. ESD/LM-83(III)/ALG/2016/1217, issued notice to some persons including the petitioner



reminding them not to construct any house within 100 meter height from the outer parapet of the Helipad.

5. The petitioner has submitted that she has already constructed her house pursuant to the permission granted to her by the Deputy Commissioner, Pasighat. Therefore, challenging the aforesaid notice the petitioner has filed the present writ petition.

6. Issue notice, returnable in 2(two) weeks.

7. As Ms. G. Ete, learned Addl. Sr. Govt. Advocate accepts notice on behalf of all the respondents, no formal notice is required to be sent. However, requisite extra-copies of the petition and the documents appended thereto, be furnished to her during the course of the day.

8. Upon considering the matter in its entirety and on perusal of the materials available on record, I am of the considered opinion that if building of the petitioner is evicted, she will suffer irreparable loss. The petitioner has presented a *prima-facie* case in her favour; therefore, I hereby direct that the impugned notice dated 13.11.2020, issued by the EAC-cum-Estate Officer, East Siang District Pasighat, vide Memo No. ESD/LM-83(III)/ALG/2016/1217, shall remain stayed, until further order.

9. List the matter after 2(two) weeks, on a date to be fixed by the Registry.

JUDGE

Comparing Assistant