

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No. 522 of 2022

Asem Amitabh Bachan & ors.

... Petitioners

Vs.

State of Manipur & ors.

... Respondents

B E F O R E

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

11-07-2022

[1] Heard Mr. Ch. Ngongo, learned counsel appearing for the petitioner.

[2] Issue notice, returnable within four weeks.

[3] Mr. Bimol Haobam, learned counsel assisting Mr. Lenin Hijam, learned Advocate General, accepts notice on behalf of the respondents, hence no formal notice is called for.

[4] The case of the petitioners is that under a Notification dated 01-06-1966 published in the Manipur Gazette, Extraordinary dated 03-06-1966, the Chief Commissioner, Manipur declared Waithou Hill Range having the boundaries – (North – Keirao Langdum Village; East – Ulihal; South – Waithou Pat and West – Ngariyal Road) as Protected Forest in exercise of the power conferred on him by Section 29 of the Indian Forest Act, read with the Government of India, Ministry of States' Notification No. 104-J dated 24-08-1950 and that the provisions of Chapter – IV of the said Act shall be applicable to the land in the Scheduled mentioned above subject to the condition that the said declaration shall not abridge or affect any existing rights of the individual or communities in the said land.

[5] Pursuant to the said Notification, the Assistant Settlement Officer Forest, Government of Manipur, being appointed as an Enquiry Officer by the Government, after holding an enquiry passed a judgment on 23-08-1978 recommending to exclude the lands comprising an area of 35.60 acres lying towards the southern side of the Waithou Hill, facing to

Waithou Lake, from the Protected Forest as to enjoy the respective rights of the objectors as usual. In the said judgment, the boundary - descriptions of the land in question are given as under –

- North : Waithou Chingdon (top of the hill)
- South : Waithou Bazar to Thyan Konjin road.
- East : Patta land of Waithou Chiru Lourup and one post, marking 1 km. from Waithou Bazar.
- West : Brahwa Road and Waithou Bazar

[6] It is the case of the petitioners that the petitioners are the descendants of the said objectors mentioned in the said judgment dated 23-08-1978 passed by the Assistant Settlement Officer Forest, Government of Manipur and that the possession and settlement of the petitioners and their forefathers in the said area have been noted and recorded by the Assistant Settlement Officer Forest, Government of Manipur.

It has also been submitted that the Deputy Commissioner, Thoubal also issued an order dated 11-09-1985 allotting the said land to the petitioners, their fathers/ forefathers and after payment of necessary premium, the said land has been recorded in the name of the petitioners in the records of right and that they have been paying the land revenue till date.

[7] It has been submitted by Mr. Ch. Ngongo, learned counsel appearing for the petitioners that the area of land being possessed by the petitioners have been declared by the Government as a Protected Forest subject to the condition that the said declaration shall not abridge or affect any existing rights of the individuals or communities in the said land and accordingly, as the petitioners or their forefathers have been residing in the said area of land, their rights and titles over the said land cannot be abridged or affected by declaration of the said area as Protected Forest under the Notification dated 01-06-1966.

It has also been submitted that the petitioners are the owners and pattadars of the said land by virtue of the allotment order of the Deputy Commissioner, Thoubal, however, quite surprisingly and without application of the mind, the Divisional Forest Officer, Thoubal Forest Division issued a Show-Cause Notice dated 04-07-2022 directing the petitioners to submit their explanation on or before 7th day from the date of receipt of the said Show-Cause Notice indicating sufficient reasons with necessary documents as to why they should not be evicted from the land of Waithou Protected Forest. According to the learned counsel, the Divisional Forest Officer, Thoubal Forest Division has no jurisdiction or power to issue such Show-Cause Notice and the same has been issued without any application of mind and without taking into consideration the relevant documents and rights and titles of the petitioners over the said land. The learned counsel, accordingly, made a prayer for passing an interim order for protecting the rights and interests of the petitioners.

[8] Mr. Lenin Hijam, learned Advocate General submitted that the respondents or the concerned authorities of the State Government will require some time to verify the documents and claims of the petitioners and to file necessary affidavit to contest the writ petition. Accordingly, the learned Advocate General made a prayer for granting atleast two weeks' time for doing the needful.

[9] As prayed for, list this case again on 28-07-2022 for consideration of the prayer for passing interim order. In the meantime and as an interim measure, the respondents are directed not to evict the petitioners from their land without the leave of this court.

List this case again on 28-07-2022.

JUDGE

Devananda