Tayenjam Biju Singh & Ors Vs State Of Manipur & Ors

Court: Manipur High Court (Imphal)

Date of Decision: May 17, 2022

Acts Referred: Manipur Land Revenue And Land Reforms Act, 1960 â€" Section 11(3), 11(4), 14, 15, 15(1), 93, 95, 96
Securitisation And Reconstruction Of Financial Assets Andenforcement Of Security Interest Act, 2002 â€" Section 13(4), 14, 17
Army Act, 1950 â€" Section 22
Code Of Criminal Procedure, 1973 â€" Section 148, 149
Indian Penal Code, 1860 â€" Section 34, 436, 447
Manipur Land Revenue And Land Reforms (Allotment. Of Land) Rules, 1962 â€" Rule 15, 15(7)
Manipur Land Revenue And Land Reforms (Allotment. Of Land) Rules, 1961 â€" Rule 18
Constitution Of India, 1950 â€" Article 136, 226

Hon'ble Judges: Ahanthem Bimol Singh, J

Bench: Single Bench

Advocate: Th. Ibohal, Th. Mahira, Lenin Hijam

Final Decision: Dismissed

Judgement

Ahanthembimol Singh, J

[1] Heard Mr. Th. Ibohal, learned senior advocate and Mr. Th. Mahira, learned advocate appearing for the petitioners. Heard also Mr. Lenin Hijam,

learned Advocate General (AG), Manipur, appearing for the respondents.

The present two writ petitions have been filed with a prayer for quashing the order dated 08.01.2001 passed by the Deputy Commissioner (D.C),

Imphal East, in Rev. Misc. Case No. 4 of 2020 and also the order dated 15.01.2021, passed by the Deputy Commissioner, Imphal East, in Eviction

Case No. 1 of 2021. Since the facts and law involved in the two writ petitions are identical, the present two writ petitions are heard jointly and the

same are being disposed of by this common judgment and order.

[2] The facts of the present cases in a nutshell is that the petitioner in W.P.(C) No. 42 of 2021 and the petitioner in W.P.(C) No. 46 of 2021 claim that

they are the owners and recorded pattadars of the homestead land under Patta No. 238 (Old), 438 (New) of C.S. Dag No. 309, 310, 311/812 having

an area of 0.28 acre of Village No. 5/Khabam and of the homestead land under Patta No. 115 (Old), 439/910 (New) of C.S. Dag No. 313/1130

having an area of 0.08 acre of Village No. 5/Khabam respectively.

[3] It is the case of the petitioners that they are in physical possession of the said land by constructing wooden structures and carrying on their

business. According to the petitioners, the Sub-Deputy Collector (S.D.C.), Heingang, without giving any notice to the petitioners and behind their back,

carried out an enquiry and submitted a report dated 30.04.2020 to the Sub-Divisional Officer (S.D.O.), Porompat, Imphal East, stating, inter-alia, that

the homestead land of the petitioners are Government Khas land. On the basis of the aforesaid enquiry report submitted by the Sub-Deputy Collector,

Heingang, the Sub-Divisional Officer, Porompat registered Rev. Misc. Case No. 7/SDO/P/IE of 2020 and Rev. Misc. Case No. 5/SDO/P/IE of 2020

against the petitioners respectively for cancellation of the Jamabandi of the petitioners.

[4] The petitioners contested the aforesaid revision cases by filing their written statements and after hearing the parties, the Sub-Divisional Officer,

Porompat disposed of the said cases by an order dated 12.10.2020, passed in the aforesaid revision cases by holding that he had no jurisdiction to

decide the dispute in view of the provisions of section 11 (3) of the MLR & LR Act, 1960.

[5] After disposal of the aforesaid revision cases, the Deputy Commissioner, Imphal East, registered a case being Rev. Misc. Case No. 4 of 2020 in

his own motion and issued a notice dated 21.11.2020 to the present petitioners stating, inter-alia, that the Patta/Jamabandi of the petitioners were

fraudulently prepared in their names without any allotment order issued by the Government of Manipur and that the entry of their names in the land

records were made fraudulently and illegally without following the procedure prescribed under the Allotment Act and Rules and without any prior

approval of the Government or the Deputy Commissioner and summoning the petitioners to appear before him on 30.11.2000 either in-person or by a

duly instructed person who will be able to answer all the material questions relating to the case or otherwise to submit written statement and to

produce witnesses/evidences and documents upon which they intend to rely in support of their claim.

[6] The petitioners contested the case by filing their respective written statements and by appearing before the Deputy Commissioner, Imphal East,

through their counsel. After hearing the counsel appearing on behalf of the present petitioners, the Deputy Commissioner, Imphal East, passed an

order on 08.01.2021 in Rev. Misc. Case No. 4 of 2020 in exercise of the power under MLR & LR Act, 1960 with the following observations and

directions:-

Ã¢â‚¬Å“ (a) The suit lands covered by C.S. Dag No. 309, 310, 311 & 313 claimed by the Opp. Parties as C.D. Dag Nos. i) 309, 310, 311/812 ii)

313/1130 iii) 313/853 iv) 853/1498 & v) 853/1499 are recorded as Ã¢â‚¬Å“State LandÃ¢â‚¬ Ã¢â‚¬Å“Khas LandÃ¢â‚¬. And in absence of any allotment

order for the same, the respondent cannot be held to be pattadar of the land.

(b) The Respondents/Objectors are unable to establish how they acquire ownership without due process of law, particularly in absence of

allotment orders by the State Government and also in absence of duly registered allotment deeds.

(c) State Land, Khas Land etc., can be mutated in the name of an individual only through land allotment process and the respondents have

not produced any such document from which it can be deduced that allotment process has been duly completed.

(d) The so called mutation Orders in respect of the disputed Patta could not be produced as the said Offices in which those records were

kept had gutted down to fire on 23/7/2004 and again on 4/3/2006 and it has submitted an FIR No. 25(3)06 LLI-PS U/s 436/447/34 IPC &

PDPPA dated, 4/3/2006. However, in absence of any allotment orders being issued by the State Govt. or in absence of duly registered

allotment deeds, the question of existence of mutation orders or Patta or Jamabandi does not arise.

(e) The Jamabandi Patta being Nos. i) 438(New), ii) 115(Old), 439/910(New), iii) 438/1251(New), iv) 238(Old), 1251/1268(New) & v)

238(Old), 1251/1269(New) are all fake without there being any allotment orders or execution of registered allotment deed by the State

Govt., and as such the subject Dag-Chithas/ Jamabandis are all declared null and void. Consequently, the respondent/objectors are illegal

encroachers of the said Government Land and liable to be evicted forthwith.

(f) It is also important to note that an internal inquiry is also under process as to how the said alleged fake Mutation

orders/Jamabandi/Pattas have been prepared without any allotment process and as to how state land has been transferred to individual

without due process of law. And, officials involved in such illegal activities shall be proceeded in accordance with law.

Before parting the relevant record, this Court request the O.C. Heingang Police Station to cause and investigate with respect to the Land

under Patta No. i) 438(New), ii) 115(Old), 439/910(New), iii) 438/ 1251 (New), iv) 238(Old), 1251/1268(New)& v) 238(old),

1251/1269(New) as to who manufactured the fake and bogus Jamabandi/Patta etc., and to book the culprits according to law.Ã¢â‚¬‹

The sum and substance of the order passed by the Deputy Commissioner, Imphal East is that the Dag-Chithas/Jamabandis recorded in the name of

the petitioners were all declared null and void and consequently, the petitioners were also declared as encroachers on Government land and liable to be

evicted forthwith.

[7] After passing the aforesaid order dated 08.01.2021 in Rev. Misc. Case No. 4 of 2020, the Deputy Commissioner, Imphal East registered an

eviction case being Eviction Case No. 1 of 2021 against the petitioners and passed an order on 15.01.2021 in the said eviction case thereby directing

the petitioners to remove the illegal structures constructed upon the land in question and to deliver vacant possession within 17.01.2021, failing which

necessary eviction shall be carried out without giving further notice. Having been aggrieved, the petitioners approached this Court by filing the present

writ petitions assailing the aforesaid orders dated 08.01.2021 and 15.01.2021, passed by the Deputy Commissioner, Imphal East, in Rev. Misc. Case

No. 4 of 2020 and Eviction Case No. 1 of 2021 respectively.

[8] Mr. Th. Ibohal, learned senior counsel appearing for the petitioner in W.P.(C) No. 42 of 2021 and Mr. Th. Mahira, learned counsel appearing for

the petitioner in W.P.(C) No. 46 of 2021 submitted that the Deputy Commissioner erroneously issued the notice dated 21.11.2020 in Rev. Misc. Case

No. 4 of 2020 under section 14 of the MLR & LR Act and Sub-Rule (vii) of Rule 15 of the MLR & LR (Allotment of Land) Rules, 1962 and

proceeded under the provisions of the said Section and Rules and passed the impugned order dated 08.01.2021 in Rev. Misc. Case No. 4 of 2020. The

learned counsel further submitted that the provisions under Section 14 of the MLR & LR Act, 1960 and Rule 15 (vii) of the MLR & LR (Allotment

and Land), Rules, 1962 are not at all applicable for deciding the issue raised in the said Rev. Misc. Case No. 4 of 2020 and that the Deputy

Commissioner is not empowered under the aforesaid Section and Rules to decide the issues raised in the Rev. Misc. Case No. 4 of 2020 and to pass

the impugned order dated 08.1.2021. The learned counsel also submitted that the impugned order dated 08.01.2021 have been passed illegally and

without any power and jurisdiction and accordingly, the said order is liable to be quashed and set aside.

[9] In respect of the impugned eviction order dated 15.01.2021, passed by the Deputy Commissioner, Imphal East in Eviction Case No. 1 of 2021, it

has been submitted by the learned counsel appearing for the petitioners that the said impugned order have been passed illegally and in complete

violation of the mandatory provisions under Rule 18 of the MLR & LR Rules, 1961, inasmuch as, the Deputy Commissioner neither issued any show

cause notice to the petitioners nor hold any summary enquiry as provided of Rule 18 of the MLR & LR Rules before passing the said eviction order

and accordingly, the learned counsel submitted that the impugned eviction order is liable to be quashed and set aside.

[10] Mr. Lenin Hijam, learned Advocate General, Manipur, submitted that after registering the Rev. Misc. Case No. 4 of 2020, the Deputy

Commissioner, Imphal East issued a notice dated 21.11.2020 to the petitioners directing them to appear before him to establish their right and title over

the land. Pursuant to the said notice, the petitioners appeared before the Deputy Commissioner, Imphal East through their respective counsel on many

occasions, however, the petitioners failed to establish their ownership over the disputed land and accordingly, the Deputy Commissioner passed the

impugned order dated 08.01.2021 in the said Rev. Misc. Case No. 4 of 2020 declaring, inter-alia, that all the Jamabandis recorded in the name of the

petitioners are all fake and null and void and that the petitioners are illegal encroachers on Government land and liable to be evicted forthwith.

Thereafter, the Deputy Commissioner passed the impugned order dated 15.01.2020 in Eviction Case No. 1 of 2021 directing the petitioners to remove

the illegal structures constructed upon the disputed land and to deliver vacant possession within 17.01.2021, failing which necessary eviction shall be

carried out without giving further notice.

The learned Advocate General, Manipur further submitted that the Deputy Commissioner is empowered under Section 11 (3) and Section 15 of the

MLR & LR Act to issue the impugned orders and that the Deputy Commissioner had issued the impugned orders after giving notice to the petitioners

and after complying fully with the principle of natural justice.

[11] So far as the contention of the petitioners about non issuance of any notice prior to issuing the impugned eviction order as contemplated under

Rule 18 of the MLR & LR Rules is concerned, it has been submitted by the learned Advocate General that as the Deputy Commissioner, Imphal East

had already given ample opportunity to the petitioners to establish their claim of ownership over the land and as the Deputy Commissioner had already

issued an order declaring the petitioners as illegal encroachers after holding an elaborate enquiry just prior to issuance of the eviction order, issuing any

further notice will not serve any useful purpose and it will be just a mere useless formality and that such an exercise will be totally futile and that non

issuance of such notice does not prejudice the petitioners in any manner. In support of his contentions, the learned Advocate General relied on the

judgment rendered by the HonÃ¢â‚¬â„¢ble Apex Court in the Case of Ã¢â‚¬Å“Dharampal Satyapal Ltd. Vs. Deputy Commissioner and Central Excise,

GauhatiÃ¢â‚¬â€‹ reported in (2015) 8 SCC 519 wherein, it has been held as under:-

Ã¢â‚¬Å“38. But that is not the end of the matter. While the law on the principle of audi alteram partem has progressed in the manner mentioned

above, at the same time, the courts have also repeatedly remarked that the principles of natural justice are very flexible principles. They

cannot be applied in any straitjacket formula. It all depends upon the kind of functions performed and to the extent to which a person is

likely to be affected. For this reason, certain exceptions to the aforesaid principles have been invoked under certain circumstances. For

example, the courts have held that it would be sufficient to allow a person to make a representation and oral hearing may not be necessary

in all cases, though in some matters, depending upon the nature of the case, not only full-fledged oral hearing but even cross-examination

of witnesses is treated as a necessary concomitant of the principles of natural justice. Likewise, in service matters relating to major

punishment by way of disciplinary action, the requirement is very very strict and full-fledged opportunity is envisaged under the statutory

rules as well. On the other hand, in those cases where there is an admission of charge, even when no such formal inquiry is held, the

punishment based on such admission is upheld. It is for this reason, in certain circumstances, even post-decisional hearing is held to be

permissible. Further, the courts have held that under certain circumstances principles of natural justice may even be excluded by reason of

diverse factors like time, place, the apprehended danger and so on.

Ã¢â‚¬Å“39. We are not concerned with these aspects in the present case as the issue relates to giving of notice before taking action. While

emphasising that the principles of natural justice cannot be applied in straitjacket formula, the aforesaid instances are given. We have

highlighted the jurisprudential basis of adhering to the principles of natural justice which are grounded on the doctrine of procedural

fairness, accuracy of outcome leading to general social goals, etc. Nevertheless, there may be situations wherein for some reason-perhaps

because the evidence against the individual is thought to be utterly compelling-it is felt that a fair hearing Ã¢â‚¬Å“would make no differenceÃ¢â‚¬-

meaning that a hearing would not change the ultimate conclusion reached by the decision-maker-then no legal duty to supply a hearing

arises. Such an approach was endorsed by Lord Wilberforce in Malloch v. Aberdeen Corpn., who said that: (WLR p. 1595 : All ER p. 1294)

Ã¢â‚¬Å“... A breach of procedure ... cannot give [rise to] a remedy in the courts, unless behind it there is something of substance which has

been lost by the failure. The court does not act in vain.Ã¢â‚¬â€‹

Relying on these comments, Brandon L.J. opined in Cinnamond v. British Airports Authority that: (WLR p. 593 : All ER p. 377)

Ã¢â‚¬Å“... no one can complain of not being given an opportunity to make representations if such an opportunity would have availed him

nothing.Ã¢â‚¬â€‹

In such situations, fair procedures appear to serve no purpose since the Ã¢â‚¬Å“rightsÃ¢â‚¬ result can be secured without according such

treatment to the individual.

Ã¢â‚¬Å“45. Keeping in view the aforesaid principles in mind, even when we find that there is an infraction of principles of natural justice, we

have to address a further question as to whether any purpose would be served in remitting the case to the authority to make fresh demand

of amount recoverable, only after issuing notice to show cause to the appellant. In the facts of the present case, we find that such an

exercise would be totally futile having regard to the law laid down by this Court in R.C. Tobacco.

Ã¢â‚¬Å“47. In Escorts Farms Ltd. v. Commr., this Court, while reiterating the position that rules of natural justice are to be followed for doing

substantial justice, held that, at the same time, it would be of no use if it amounts to completing a mere ritual of hearing without possibility of

any change in the decision of the case on merits. It was so explained in the following terms: (SCC pp. 309-10, para 64)

Ã¢â‚¬Å“64. Right of hearing to a necessary party is a valuable right. Denial of such right is serious breach of statutory procedure prescribed

and violation of rules of natural justice. In these appeals preferred by the holder of lands and some other transferees, we have found that

the terms of government grant did not permit transfer of land without permission of the State as grantor. Remand of cases of a group of

transferees who were not heard, would, therefore, be of no legal consequence, more so, when on this legal question all affected parties

have got full opportunity of hearing before the High Court and in this appeal before this Court. Rules of natural justice are to be followed

for doing substantial justice and not for completing a mere ritual of hearing without possibility of any change in the decision of the case on

merits. In view of the legal position explained by us above, we, therefore, refrain from remanding these cases in exercise of our

discretionary powers under Article 136 of the Constitution of India.Ã¢â‚¬â€‹

Ã¢â‚¬Å“48. Therefore, on the facts of this case, we are of the opinion that non-issuance of notice before sending communication dated 23-6-

2003 has not resulted in any prejudice to the appellant and it may not be feasible to direct the respondents to take fresh action after issuing

notice as that would be a mere formality.Ã¢â‚¬â€‹

[12] The learned Advocate General submitted that the Deputy Commissioner, Imphal East passed the impugned orders dated 08.01.2021 in Rev.

Misc. Case No. 4 of 2020 in exercise of the power conferred under Section 11 (3) of the MLR & LR Act and the impugned order dated 15.01.2021

in Eviction Case No. 1 of 2021 in exercise of the power under Section 15 of the MLR & LR Act and that if the petitioners are aggrieved by the said

two orders, they can challenge the same by filing appeals, revision, review or civil suit as provided under Section 93, 95, 96 and 11(4) of the MLR &

LR Act. It has also been submitted that as the petitioners have filed the present writ petitions challenging the said impugned orders without exhausting

the alternative and effective statutory remedies available under the MLR & LR Act, the present writ petitions are not maintainable and are liable to be

dismissed outright.

In support of his contentions, the learned Advocate General relied on the following judgments of the HonÃ¢â‚¬â„¢ble Apex Court in the case of:-

(1) Ã¢â‚¬Å“Rajasthan State Industrial Development and Investment Corporation And Another Vs. Diamond & Gem Development

Corporation Limited And AnotherÃ¢â‚¬â€ reported in (2013) 5 SCC 470, wherein, it has been held that-

Ã¢â‚¬Å“39. The cancellation of allotment was made by appellant RIICO in exercise of its power under Rule 24 of the 1979 Rules read with the

terms of the lease agreement. Such an order of cancellation could have been challenged by filing a review application before the competent

authority under Rule 24(aa) and, in the alternative, the respondent Company could have preferred an appeal under Rule 24(bb)(ii) before

the Infrastructure Development Committee of the Board. The respondent Company ought to have resorted to the arbitration clause provided

in the lease deed in the event of a dispute, and the District Collector, Jaipur would have then decided the case. However, the respondent

Company did not resort to either of the statutory remedy, rather preferred a writ petition which could not have been entertained by the High

Court. It is a settled law that writ does not lie merely because it is lawful to do so. A person may be asked to exhaust the statutory/alternative

remedy available to him in law.Ã¢â‚¬â€

(2) Ã¢â‚¬Å“Phoenix ARC Private Limited V.VishwaBharatiVidyaMandir and OthersÃ¢â‚¬ reported in AIR 2022 SC 1045, wherein, it has been held

that-

Ã¢â‚¬Å“7.3 In the case of Satyawati Tondon and Ors. (supra), it was observed and held by this Court that the remedies available to an

aggrieved person against the action taken under section 13(4) or Section 14 of the SARFAESI Act, by way of appeal under Section 17, can

be said to be both expeditious and effective. On maintainability of or entertainability of a writ petition under Article 226 of the Constitution

of India, in a case where the effective remedy is available to the aggrieved person, it is observed and held in the said decision in

paragraphs 43 to 46 as under:-

Ã¢â‚¬Å“43. Unfortunately, the High Court over-looked the settled law that the High court will ordinarily not entertain a petition under Article

226 of the Constitution if an effective remedy is available to the aggrieved person and that this rule applies with greater rigour in matters

involving recovery of taxes, cess, fees, other types of public money and the dues of banks and other financial institution. In our view, while

dealing with the petitions involving challenge to the action taken for recovery of the public dues, etc. the High Court must keep in mind that

the legislations enacted by Parliament and State Legislatures for recovery of such dues are a code unto themselves inasmuch as they not

only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi-judicial bodies for redressal of the

grievance of any aggrieved person. Therefore, in all such cases, the High Court must insist that before availing remedy under Article 226 of

the Constitution, a person must exhaust the remedies available under the relevant statute.

Ã¢â‚¬Å“44. While expressing the aforesaid view, we are conscious that the powers conferred upon the High Court under Articles 226 of the

Constitution to issue to any person or authority, including in appropriate cases, any Government, directions, orders or writs including the

five prerogative writs for the enforcement of any of the rights conferred by Part III or for any other purpose are very wide and there is no

express limitation on exercise of that power but, at the same time, we cannot be oblivious of the rules of self-imposed restraint evolved by

this Court, which every High Court is bound to keep in view while exercising power under Article 226 of the Constitution.

Ã¢â‚¬Å“45. It is true that the rule of exhaustion of alternative remedy is a rule of discretion and not one of compulsion, but it is difficult to

fathom any reason why the High Court should entertain a petition filed under Article 226 of the Constitution and pass interim order

ignoring the fact that the petitioner can avail effective alternative remedy by filing application, appeal, revision, etc. and the particular

legislation contains a detailed mechanism for redressal of his grievance.Ã¢â‚¬â€‹

[13] Before considering the rival submissions advanced by the learned counsel appearing for the parties, it will be appropriate to examine the

provisions of the MLR & LR Act and Rules relevant for the purpose of deciding the issues involved in the present writ petitions. The relevant

provisions of the Act and Rules are reproduced hereunder for ready reference :-

Ã¢â‚¬Å“11. ** * * * * *

(3) Where any property or any right in or over any property is claimed by or on behalf of the Government or by any person as against the

Government and the claim is disputed, such dispute shall be decided by the deputy commissioner whose order shall, subject to the provisions

of the Act, be final.

(4) Any person aggrieved by an order made under sub-section (3) or in appeal or revision therefrom may institute a civil suit to contest the

order within a period of six months from the date of such order, and the decision of the civil court shall be binding on the parties.

Ã¢â‚¬Å“15. Unauthorised occupation of land.-(1) Any person who occupies or continues to occupy any land belonging to Government without

lawful authority shall be regarded as a trespasser and may be summarily evicted therefrom by the competent authority and any building or

other construction erected or anything deposited on such land, if not removed within such reasonable time as such authority may from time

to time fix for the purpose, shall be liable to be forfeited to the Government and to be disposed of in such manner as the competent authority

may direct :

Ã¢â‚¬Å“93. Appeals.-(1) Save as otherwise expressly provided, an appeal shall lie from every original order passed under this Act,-

(a) .....

(b) .....

(c) if such an order is passed by the Deputy Commissioner, to the tribunal.

Ã¢â‚¬Å“95. Revision.-The Tribunal or the Deputy Commissioner may either on his own motion or on the application of any party, call for the

records of any proceedings before any Revenue Officer subordinate to him for the purpose of satisfying himself as to the legality or the

propriety of any order passed by such Revenue Officer, and may pass such order in reference thereto as he thinks fit :

Provided that he shall not vary or reverse any order affecting any right between private person without having given to the parties

interested notice to appear or be heard:

Provided further that no revision shall lie after the expiry of ninety days from the date of the order to be revised.

Ã¢â‚¬Å“96. Review of orders.-A Revenue Officer may, either on his own motion or on the application of any party interested, review any order

passed by himself or by any of his predecessors-in-office and pass such order in reference thereto as he thinks fit :Ã¢â‚¬â€‹

Ã¢â‚¬Å“Rule 18. (1) Before ordering eviction of a person under sub-section (1) of section 15 the competent authority shall issue a notice to him

requiring him to show cause within a period to be specified in the notice why he should not be evicted from the land.

(2) If the person concerned files an objection within the period specified in the notice or such extended period as may be allowed by the

competent authority it shall hold a summary inquiry in the manner laid down in Schedule III.

(3) If the person concerned files no objection within the time so allowed or if after inquiry the competent authority finds that the person is a

trespasser it shall order his eviction and shall also require him to remove any building or other construction erected or any thing deposited

on the land within a time specified in the order.Ã¢â‚¬â€‹

[14] On careful examination of the above quoted Act and Rules, this Court is of the considered view that the Deputy Commissioner is the competent

authority and empowered under Section 11 (3) of the MLR & LR Act to decide the dispute regarding any claim of ownership or any right in or over a

property on behalf of the Government or by any person against the Government and that any person aggrieved by an order made under Sub-Section

(3) of Section 11 can institute a civil suit to contest the order passed by the Deputy Commissioner.

[15] Section 15 (1) of the MLR & LR Act provides that any person who occupies or continues to occupy any land belonging to the Government

without lawful authority shall be regarded as a trespasser and may be summarily evicted there from by the competent authority and any building or

constructions erected, if not removed within such reasonable time fixed by the authority for the purpose, shall be liable to be forfeited or disposed of.

However, under Rule 18 of the MLR & LR Rules, it is provided that before ordering eviction of a person under Section 15 (1) of the MLR & LR Act,

the competent authority should issue a notice to him requiring him to show cause as to why he should not be evicted from the land and that if the

person file an objection an enquiry should be held before his eviction.

[16] Under Section 93, it is provided that an appeal shall lie against an order passed by the Deputy Commissioner to the tribunal and that under

Section 95 and 96, there is provisions for filing revision and review against the order passed by the Revenue Officers under the MLR & LR Act.

[17] In the present cases, the Deputy Commissioner, Imphal East issued a notice dated 21.11.2020 to the petitioners summoning them to appear

before him in-person or by a duly authorised representative to establish their rights and title over the land in dispute and after hearing the counsel

appearing on behalf of the petitioners, the Deputy Commissioner passed the impugned order dated 08.01.2021 in Rev. Misc. Case No. 4 of 2020

declaring, inter-alia, that the DagChithas or Jamabandis recorded in the name of the petitioners are null and void and consequently, the petitioners

were also declared as encroachers on Government land and liable to be evicted forthwith. Subsequently, the Deputy Commissioner, Imphal East,

issued the impugned order dated 15.01.2021 in the Eviction Case No. 1 of 2021 directing the petitioners to remove the illegal structures constructed

upon the said land and to deliver vacant possession. In view of the undisputed facts, this court is of the considered view that the Deputy

Commissioner, Imphal East, had acted in compliance with the provisions of Section 11 (3) and Section 15 of the MLR & LR Act and Rule 18 of the

MLR & LR Rules and that the Deputy Commissioner, Imphal East has the power and authority to issue the impugned orders.

[18] On careful examination of the records of the present writ petitionsmore particularly the notice dated 21.11.2020 and the impugned order dated

08.01.2021 passed by the Deputy Commissioner, Imphal East in Rev. Misc. Case No. 4 of 2020, this Court did not find any material whatsoever to

substantiate or to support the contentions of the writ petitioners that the Deputy Commissioner, Imphal East, had erroneously issued the said notice

dated 21.11.2020 under the provisions of Section 14 of the MLR & LR Act and Rule 15 of the MLR & LR (Allotment of Land) Rules, 1962and that

the Deputy Commissioner had proceeded under the erroneous and inapplicable provisions of the Act and Rules and passed the impugned orders

without any authority or jurisdiction. Mere mentioning of Section 14 of the MLR & MR Act and Rule 15 of the MLR & LR (Allotment of Land)

Rules, that too, in the context as contained in the said notice dated 21.11.2020 cannot, by any stress of imagination, be construed that the said notice

has been issued under the said Section and Rule. Moreover, since the source of power of the Deputy Commissioner, Imphal East, in taking up the

proceedings and issuing the impugned orders are traceable under Section 11 (3) and Section 15 of the MLR & LR Act, mere non mentioning or

mentioning of wrong provisions of the Act and Rules cannot vitiate the impugned orders. In this regard, we can gainfully rely on the following

judgments of the HonÃ¢â‚¬â„¢ble Apex Court:-

(1) Ã¢â‚¬Å“N. Mani Vs. Sangeetha Theatre And OthersÃ¢â‚¬â€ reported in (2004) 12 SCC 278

Ã¢â‚¬Å“9. It is well settled that if an authority has a power under the law merely because while exercising that power the source of power is not

specifically referred to or a reference is made to a wrong provision of law, that by itself does not vitiate the exercise of power so long as the

power does exist and can be traced to a source available in law.Ã¢â‚¬â€

(2) Ã¢â‚¬Å“PK. Palanisamy Vs. N. Arumugham & AnotherÃ¢â‚¬â€ reported in (2009) 9 SCC 173

Ã¢â‚¬Å“27. Section 148 of the Code is a general provision and Section 149 thereof is special. The first application should have been filed in

terms of Section 149 of the Code. Once the court granted time for payment of deficit court fee within the period specified therefor, it would

have been possible to extend the same by the court in exercise of its power under Section 148 of the Code. Only because a wrong provision

was mentioned by the appellant, the same, in our opinion, by itself would not be a ground to hold that the application was not maintainable

or that the order passed thereon would be a nullity. It is a well-settled principle of law that mentioning of a wrong provision or non-

mentioning of a provision does not invalidate an order if the court and/or statutory authority had the requisite jurisdiction therefor.

Ã¢â‚¬Å“28. In Ram Sunder Ram V. Union of India it was held:

(SCC pp.260-61, para 19)

Ã¢â‚¬Å“19. .... It appears that the competent authority has wrongly quoted Section 20 in the order of discharge whereas, in fact, the order of

discharge has to be read having been passed under Section 22 of the Army Act.

Ã¢â‚¬Å¾9. It is well settled that if an authority has a power under the law merely because while exercising that power the source of power is not

specifically referred to or a reference is made to a wrong provision of law, that by itself does not vitiate the exercise of power so long as the

power does exist and can be traced to a source available in law.â€Ÿ (See N. Mani V. Sangeetha Theatre, SCC p. 280, para 9.)

Thus, quoting of wrong provision of Section 20 in the order of discharge of the appellant by the competent authority does not take away the jurisdiction

of the authority under Section 22 of the Army Act. Therefore, the order of discharge of the appellant from the army service cannot be vitiated on this

sole ground as contended by the learned counsel for the appellant.Ã¢â‚¬â€‹

Ã¢â‚¬Å“29. In N. Mani V. Sangeetha Theatre it is stated: (SCC p. 280, para 9)

Ã¢â‚¬Å“9. It is well settled that if an authority has a power under the law merely because while exercising that power the source of power is not

specifically referred to or a reference is made to a wrong provision of law, that by itself does not vitiate the exercise of power so long as the

power does exist and can be traced to a source available in law.Ã¢â‚¬â€‹

[19] In the present cases, as the Deputy Commissioner, Imphal East issued a notice dated 21.11.2020 summoning the petitioners to appear before him

to substantiate their claim of rights and title or ownership over the disputed land and as the Deputy Commissioner held an elaborate enquiry and heard

the petitioners through their counsel before issuing the impugned eviction order dated 15.01.2021, this Court is of the considered view that the Deputy

Commissioner, Imphal East, had substantially complied with the provisions of Rule 18 of the MLR & LR Rules and had also complied with the

principles of natural justice. This Court is also of the considered view that the petitioners could not make out any case of causing any prejudice to them

by non-issuance of a notice prior to issuance of the impugned eviction order. In view of the above, this Court declines to interfere with the impugned

eviction order.

[20] So far as the claim of the petitioners about their right and title over the disputed land is concerned, it has been submitted by the learned counsel

appearing for the petitioners that the petitioners have already filed Original Suit No. 9 of 2021 and Original Suit No. 8 of 2021 respectively in the Court

of Civil Judge (Senior Division), Imphal East, Manipur and that in the said pending suits, the learned Civil Judge had already passed an order for

maintaining status-quo. In view of the above, this Court is not inclined to consider the claims of the petitioners of having their rights and title over the

disputed land in the present writ petitions.

In the result, the writ petitions are hereby dismissed and all the earlier interim orders stands vacated. Parties are to bear their own costs.