

THE HIGH COURT OF MEGHALAYA

WP(C) No. 284/2014

Shri. B.B. Chhetry,
S/o (L) K.B. Chhetry,
R/o Mawpat, Near 137 Bn (now 73 Bn),
Power House, Shillong, East Khasi Hills District,
Meghalaya. :::: **Petitioner**

-Vrs-

1. Union of India, represented by its
Secretary, Home Affairs Department,
Govt. of India.
2. The Commandant 17 Bn
BSF Mawpat, Shillong-12.
3. The Deputy Commissioner/Quarter Master
117 Bn BSF, Mawpat, Shillong. :::: **Respondents**

**BEFORE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH
CHIEF JUSTICE (ACTING)**

For the Petitioner : Mr. HL Shangreiso, Adv

For the Respondents : Mr. SC Shyam, Sr. Adv
Mr. B Deb, Adv

Date of hearing : **22.08.2014**

Date of Judgment & Order : **22.08.2014**

JUDGMENT AND ORDER (ORAL)

By this writ petition, the petitioner is assailing the notice dated 19.08.2014 issued by the respondent No.2 i.e. Commandant 73 Bn BSF to the petitioner for evicting him from the so called STD/PCO Booth occupied by the petitioner. For easy reference, the said eviction notice dated 19.08.2014 (*Annexure-H to the writ petition*) is quoted hereunder:-

*"No./Estt/73 Bn BSF/T S 47(T)2003(BB Chhetry)2014/11664-65
Government of India
Ministry of Home Affairs
73 Battalion, Border Security Force.*

*Tel-0364-2534943 Mawpat, Shillong
Email-Comdt073@bsf.nic.in (Meghalaya)-793012
Dated, the 19th Aug' 2014.*

To,

*Shri. B.B. Chhetry,
S/o (L) K.B. Chhetry,
R/o Mawpat, Near 137 Bn (now 73 Bn),
Power House, Shillong.*

*Sub: **VACATION OF SHOP***

Where-as, you were allowed for establishment of STD/PCO Booth at BSF Campus Mawpat by 62 Bn BSF on 14/09/1998 for the welfare of BSF Jawans on payment of rent @ 500/- PM. You have stopped paying of monthly rent without any cogent reasons and have been occupying the accommodation/space unauthorizedly.

2. Whereas you had filed a civil suit No. 47(T) of 2003 with Misc Case No. 115(T) of 2003 titled B B Chhetri V/S UOI and others in the court of Assistant to Deputy Commissioner, Shillong. The said case was listed on 14.02.2014 and Hon'ble Court dismissed the suit for default. Therefore, it leads to unauthorized occupation of the space.

3. In view of the above, you are hereby directed to vacate the space occupied by you within 07 days failing which appropriate action will be taken against you under the provision of P.P. Act, 1971.

*Sd/-18.08.2014
(PRAWIN KUMAR)
COMMANDANT
73 Bn BSF."*

2. Mr. HL Shangreiso, learned counsel for the petitioner contended that the petitioner had already filed an application for restoration of Civil Suit i.e. Civil Suit No.47(T)2003 by setting aside the order of the trial court dated 14.02.2014, dismissing the suit on default. It is also stated that the said application for restoration cannot be taken up and disposed of expeditiously, as the Presiding Officer of the Court of Assistant to Deputy Commissioner, Shillong had been transferred and at present, no Presiding

Officer has been posted. Since the matter in disputes between the parties is now subjudice in the civil court, it would be appropriate for the petitioner to approach the civil court before whom the said civil court is pending for appropriate order/injunction against the impugned eviction notice dated 19.08.2014. However, this Court is not making any observation regarding the merits of the case of the petitioner inasmuch as, the trial court would be the competent authority to decide such civil disputes.

3. Mr. HL Shangreiso, learned counsel for the petitioner contended that the petitioner is ready to approach the civil court where the said civil suit is pending but the petitioner cannot pursue for any interim relief from the civil court as there is no Presiding Officer. In such case, the petitioner may approach the concerned District Judge for transferring the said civil suit to another civil court of competent jurisdiction.

4. In order to enable the petitioner to approach the competent civil court for seeking appropriate relief in the said civil suit, one month's time is granted for approaching the said competent civil court for interim order/injunction order. In order to straight the balance between the parties and also for the ends of justice, the impugned notice dated 19.08.2014, shall remain suspended for a period of one month from today.

5. With the above observations and directions, this writ petition is disposed of.

CHIEF JUSTICE (ACTING)

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