

WP(C) 37/2013
BEFORE
HON'BLE DR.(MRS.) JUSTICE INDIRA SHAH

Heard Mr. Rintu Saikia, learned counsel for the petitioner. Also heard Mr. R. H. Nabam, learned Senior Government Advocate, appearing on behalf of the State Respondents No. 1, 2 & 4, as well as Mr. Kento Jini, learned standing counsel for Respondent No. 3.

By filing this writ petition under Article 226 of the Constitution of India, the petitioner has challenged the order dated 22.01.2013 passed by the Deputy Commissioner, Capital Complex, Naharlagun, whereby the prayer of the petitioner to shift the CRPF/ITBP barrack situated at E-Sector, Itanagar, close to NH-52A, was rejected.

It is contended by the petitioner that he was in occupation of a plot of land situated opposite to Civil Secretariat of Arunachal Pradesh and close to NH-52A since the year 1989. Finally, the land was allotted to the petitioner in the year 2009, for commercial purpose. It is further averred by the petitioner that as requested by the respondent authorities, he gave some portion of the said land to the CRPF/ITBP, temporarily, on condition that the respondent authorities, in due course of time, will shift the camp to some other place and vacate the land, in question. However, while the petitioner was absent from the State of Arunachal Pradesh, the respondent authorities without his prior consent, constructed a SPT building on the said plot of land. The petitioner also lodged an First Information Report(FIR) with regard to the said illegal construction of boundary wall on 03.03.2007. It has been further contended that since the year 2007, he has been submitting various representations asking the authorities concerned to shift the CRPF/ITBP barrack from the land in possession of the petitioner, which have been given by him, to the CRPF/ITBP, temporarily. The petitioner has also contended that on 04.07.2011, the Chief Estate Officer-cum-Additional District Magistrate, visited the site and submitted his spot verification report wherein he has stated that shifting of the CRPF/ITBP barrack shall be security threat to the Civil Secretariat. Again, on 26.07.2011, the Deputy Commissioner, Itanagar Capital Complex, Itanagar, personally verified the spot and observed that the RCC commercial building is adjacent to the said camp and one room is found to be closed due to disturbance caused by the CRPF/ITBP Jawans to the tenants of the petitioner and the present occupant may be shifted to the newly constructed building on completion of their Security Cell area. Since the said barrack was not shifted, the petitioner approached this Court earlier and this Court, vide order dated 19.07.2012 passed in WP(c) 145(AP)2012, directed the Respondent No. 4 i.e. the Deputy Commissioner, Itanagar Capital Complex, Naharlagun, to dispose of the last representation submitted by the petitioner on 26.07.2011, by a speaking order within a period of 2(two) months from the date of receipt of a certified copy of the order. It is further alleged by the petitioner that the respondent Deputy Commissioner has passed the impugned order rejecting the claim of the petitioner for s

lifting of the CRPF/ITBP barrack mechanically without applying his mind.

The respondent authorities, in their counter affidavit, have averred that as per available records, the back side of the said barrack/camp does not fall under the allotted land to the petitioner and the allotted land to the petitioner is adjacent to the CRPF/ITBP camp wherein he has constructed the RCC building.

The petitioner, in his affidavit-in-reply, has alleged that the said barrack is standing in front of the commercial land of the petitioner and therefore, he has been denied with the Right of Way and the occupation of the land by the CRPF/ITBP authorities is hampering the business activities of the petitioner due to lack of sewage system and due to dumping of sewage materials on the properties of the petitioner.

In this petition, the petitioner has claimed that the land, in question, was allotted to him and a portion of the said plot of land so allotted to him, has been occupied by the CRPF/ITBP authorities.

During the course of argument, Mr. Saikia, learned counsel for the petitioner, has submitted that the plot of land, in occupation of the petitioner, was not allotted to the petitioner but it was in his occupation since long. But in the representations as well as writ petitions, the petitioner has alleged that he has spared the land or handed over the land to the authorities concerned for construction of CRPF/ITBP temporarily.

From a perusal of Annexure-I to the writ petition i.e. the Land Allotment Passbook of the petitioner, it appears that the land allotted to the petitioner is surrounded, in the North by CRPF Police Point; South by the Forest Office Com.; East by the NH 52A; and West by the Forest Quarter Complex.

Therefore, in view of the above, the contention of the petitioner that the CRPF/ITBP camp is in front of the petitioner's land thereby violating the Right of Way to the petitioner is not correct/true on the basis of the available documents/records.

Since the land in occupation of the CRPF/ITBP authorities was never allotted to the petitioner by the State Government, the petitioner cannot claim that the CRPF/ITBP barrack must be shifted to some other place from the present location. For hygienic/unhygienic condition of the CRPF/ITBP barrack and creation of nuisance by the CRPF/ITBP personnel, there are appropriate forums for redressal of his (petitioner's) grievance, if any, and as such, the instant writ petition cannot be entertained on this aspect alone.

In view of the above, this writ petition is hereby dismissed.

JUDGE
Bikash