

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 561 of 2019

Date of order: 14.12.2019

Pershaya Gil Tariang Vs. State of Meghalaya & Ors.

Coram:

Hon'ble Mr. Justice Mohammad Rafiq, Chief Justice

Appearance:

For the Petitioner/Appellant(s) : Mr. S. Thapa, Adv.

For the Respondent(s) : Mr. N.D. Chullai, Addl.AG with
Mr. S. Sengupta, Addl.Sr.GA

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

Oral:-

1. This writ petition has been filed by the petitioner Smt. Pershaya Gill Tariang challenging the order dated 10.07.2019 which reads as under:

सत्यमेव जयते
“GOVERNMENT OF MEGHALAYA
OFFICE OF THE DEPUTY COMMISSIONER::EAST KHASI
HILLS DISTRICT, SHILONG

No. L.14/7(2)2012/Pt/53

Dt. Shillong, the 10th July, 2019

ORDER

In supersession to this Office Order as contained in letter No. L.14/7(2)2012/Pt/51, dated 8th March, 2019, Smti. P.G. Tariang, Lessee of Plot No. 24 & 25 and Shri B. Malñiang are hereby directed to maintain status quo and easement right to use the footpath cannot be restrained by either party by constructing fence or wall.

Sd/-

*Deputy Commissioner (Rev)
East Khasi Hills District
Shillong.”*

2. The contention of the learned counsel for the petitioner is that the order impugned has been passed at the instance of respondent No. 4 who had earlier approached this Court in WP(C) No. 78 of 2013 with a prayer

that a writ of mandamus be issued directing the State of Meghalaya to demarcate the disputed footpath in plot No. KT/Q (388) in Kench's Trace, Shillong. In that writ petition a prayer was also made that respondents No. 3 and 4 i.e., Additional Deputy Commissioner (Rev.), East Khasi Hills District, Shillong and Additional Director of Surveys, Govt. of Meghalaya, Lower Lachumiere, Shillong be directed to restore the possession of the footpath leading to the property of the petitioner which was alleged to have been encroached by respondent No. 5 Smt. Pershaya Gill Tariang (writ petitioner herein). This Court declined to entertain the writ petition with liberty to the writ petitioner to seek remedy before the appropriate civil court however, directed the Additional Director of Surveys to demarcate the land after notice to all concerned parties within three months in accordance with the provisions of the Assam Land and Revenue Regulation, 1886. Learned counsel for the petitioner further submitted that the Deputy Commissioner (Rev.), East Khasi Hills District, Shillong by the impugned order could not have directed the parties to maintain status quo and easement right by either party by constructing fence or wall.

3. Learned Addl. AG has cited the Meghalaya Land and Revenue Regulation 1984 and submitted that the petitioner has remedy of appeal against the order of the Deputy Commissioner before the Board of Revenue under Section 147 (a) of the Meghalaya Land and Revenue Regulation 1984.

4. Learned counsel for the petitioner submitted that the petitioner had immediately after the aforesaid order was passed approached this Court by filing WP(C) No. 114 of 2019 against the order dated 08.03.2019. While the said writ petition was pending, the respondents passed the impugned order dated 10.07.2019. The petitioner withdrew the writ petition with liberty to file fresh writ petition. He was advised to file writ petition against the aforesaid order before this Court instead of appeal in view of the observations of this Court in the writ petition filed by respondent No. 4 that she should approach the competent civil court for recovery of the

possession. Learned counsel submitted that as per Section 148 of the Meghalaya Land and Revenue Regulation 1984, the period of limitation for appeal before the Board of Revenue is 60 days. Therefore, the period which has been consumed in filing the writ petition before this Court should be ordered to be excluded.

5. Having regard to the submissions made by the learned counsel for the parties at the bar and the facts of the case, this Court is not inclined to entertain this writ petition directly against the order of the Deputy Commissioner (Rev.), however, with liberty to the petitioner to approach the Board of Revenue by filing appeal against the order impugned herein. If such appeal is filed by 10.01.2020 before the Board of Revenue, the same shall be heard and decided by the Board on merits. The Board shall make endeavour to decide the appeal within three months from the date of service on all the parties.

6. Writ petition is dismissed, however with the aforementioned observations.



(Mohammad Rafiq)
Chief Justice

Meghalaya
14.12.2019
"Sylvana PS"