

GAHC030007882025



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/142/2025

Sh. Ngurdailova and 2 Ors.
S/o Vanlalnghaka, R/o Chawnpui, Aizawl 2: Sh. Vanlalliana
S/o Pathiaua
R/o Chawnpui
Aizawl

3: Sh. Lalremliana
S/o Vanlalnghaka
R/o Chawnpui
Aizawl

VERSUS

The State of Mizoram r/b the Secretary to the Govt. of Mizoram and 4 Ors.
Land Revenue and Settlement Department, Aizawl, New Secretariat Complex,
Mizoram 796001 2:The Director
Land Revenue and Settlement Department
Govt. of Mizoram

Directorate of Land Revenue and Settlement Office Building
1st Floor
Room No. 133
New Secretariat Complex in Aizawl
Mizoram-796001

3:The Secretary to the Govt. of Mizoram
PWD
Aizawl

Public Works Department Secretariat
Tuikhuahtlang
Aizawl
Mizoram - 796001

4:The engineer-in-Chief
PWD

Mizoram
aizawl
Engineer-in-Chief's Office PWD
Tuikhuahtlang
Aizawl
Mizoram - 796001

5:Sh. C. Zarzoliana
S/o Pachhunga Changte
R/o Dawrpui
Aizaw

Advocate for the Petitioner : Mr C Lalramzauva Sr. Adv.

Advocate for the Respondent : Addl. AG/GA, Mizoram for R 1-4

BEFORE

HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

25.11.2025

Heard Mr. C. Lalramzauva, learned senior counsel, assisted by Mr. Stephen Lalbuatsaiha, learned counsel appearing for the petitioner. Also heard Mr. Samuel Vanlalhriata Chhangte, learned Additional Advocate General, Mizoram, appearing for the respondent Nos. 1 to 4.

2. By way of this writ petition under Article 226 of the Constitution of India, the petitioners are assailing the validity/legality of the order and decree dated 26.02.2020 passed in Eviction Suit No. 4/2019 along with the order dated 30.10.2025 passed in Execution Case No. 52/2020, arising out of Eviction Suit No. 4/2020, seeking for a declaration of such

orders as a nullity and non-est in the eye of law on the ground of fraud committed by the plaintiff/respondent No. 5 for obtaining the said order.

3. It is the specific case of the petitioners that they are homeless manual labourers, earning their livelihood by chipping stones and selling them for the purpose of construction of houses, and have been allowed to occupy the vacant lands lying on the side of the New Capital Complex- Chawnpui kawn road on a temporary basis since the year 2014. It is the further case of the petitioners that they have been occupying the subject sites by constructing temporary huts, and thereafter Assam-type buildings were also constructed, and they have been living there for the last 10 years. It appears that the site under the occupation alleged to be under the petitioners was earlier within the land of the plaintiff/respondent No. 5 covered by LSC No. 3194 of 1985; however, later on a strip of land covered by the said LSC was acquired by the Government of Mizoram for the purpose of construction and widening of the said New Capital Complex- Chawnpui kawn road way back in the year 2002. It appears that the respondent No. 5 was awarded compensation amounting to Rs. 2,20,948/- as the cost of his land with an area of 4067.28 sq. ft. Thereafter, a modified LSC No. Azl-3194/1985 in the year 2014 excluding the portion of land already acquired was also issued to him.

4. It is the further specific case of the petitioners that they have been occupying the said acquired portion of land; however, the process of allotment of House Site Passes was taken up by the Revenue Department since 2014, and the same has not yet been finalized. Upon a complaint being filed by the respondent No. 5 alleging that the

petitioners have been illegally and without obtaining his permission occupying his land, Suit No. 4/2019 was filed by the respondent No. 5, and the suit was decreed vide order and decree dated 26.02.2020 in favour of the respondent No. 5. Against the same, an Execution Case No. 52/2020 was filed, which was allowed by the Executing Court vide the order dated 30.10.2025. Situated thus, the present writ petition has been filed.

5. Mr. C. Lalramzauva, learned senior counsel for the petitioner, submits that the respondent No. 5 has suppressed the material facts and had obtained the judgment and decree dated 26.02.2020 in Eviction Suit No. 4/2019, and hence such order and decree is a nullity. In support of his aforesaid submission, he relies upon the decision of the Apex Court in the case of ***AV Papayya Sastri v. Govt. of AP & Ors.***, reported in ***(2007) 4 SCC 221***.

6. Issue notice, returnable by 3 (three) weeks.

7. Mr. Samuel Vanlalhriata Chhangte, learned Additional Advocate General, Mizoram, accept notice on behalf of respondent Nos. 1 to 4. Let extra copies be served within 3 (three) days from today.

8. Steps in respect of respondent No. 5 shall be taken through registered post with A/D within a period of 3 (three) days from today.

9. Upon hearing the parties for consideration of grant of interim staying the impugned order and decree dated 26.02.2020 passed in Eviction Suit No. 4/2019 as well as the order dated 30.10.2025 passed in Execution Case No. 52/2020, this court finds that the trial court in the eviction suit by order and decree dated 26.02.2020 has elaborately

considered the evidence on record and has recorded a clear finding that the plaintiff/respondent No. 5 is the owner of LSC No. Azl-3194/1985, which has been occupied by the respondents/petitioners illegally, and despite having been asked to vacate the same, they have refused to do so. It further appears that there is a clear finding that the petitioners are illegally encroaching on and occupying the subject land of the respondent No. 5. It further appears that despite knowledge of the eviction suit, the petitioners did not submit any written statement. It further appears that though an application for setting aside the *ex-parte* order and decree dated 26.02.2020 was filed; however, due to delay, the said application was rejected. Against that, though, an appeal and a review were also filed; the same were also rejected. It is thus prima facie evident that the petitioners are illegally occupying and possessing the subject suit land.

10. Having considered, this court does not find any reason to stay the impugned execution orders at this stage without hearing the respondent No. 5.

11. Relist the matter after 3 (three) weeks on a date to be fixed by the Registry.

JUDGE

Comparing Assistant