

WP(PIL) No. 09/2016
PIPON & GAMBOS OF LACHEN DZOMSA vs. SECRETARY,
MINISTRY OF DEFENCE

BEFORE
MR. JUSTICE SATISH K. AGNIHOTRI, CJ &
MRS. JUSTICE MEENAKSHI MADAN RAI, J.

06. 05.04.17 Present: Mr. B.R. Pradhan, Sr. Advocate with Mr. Bhushan
(Agnihotri, CJ) Nepal, Advocate as '*Amicus Curiae*' for the
petitioners.

Mr. J.B. Pradhan, Addl. Advocate General with Mr.
S.K. Chettri and Ms. Pollin Rai, Asstt. Govt.
Advocates for Respondent No. 1.

Mr. Karma Thinlay, Central Govt. Advocate for
Respondents No. 2, 3 and 4.

...

IA No. 01/2017

In the instant petitioner, the petitioner has
filed an application seeking, *inter alia*, following
directions: -

- “(i) all the details of lands in the North District of Lachen which are under the occupation of Army, ITBP, BRO, etc;
- (ii) Details regarding plot Numbers, area, ownership, possession, Parcha Khatiyan (records of right) of the said lands;
- (iii) Information of the said lands are acquired or not and if yes, details of orders, notifications, awards, calculation for compensation, disbursement of compensation and receipts thereof and if the said lands are not acquired then information as to how the Army, ITBP, etc are in occupation of said lands and under what authority;
- (iv) if the said lands in occupation are under hiring charges, all details of agreements, the lands under occupation with area and period of occupation, written consents of land owners obtained by the authority i.e. Army, ITBP, etc for hiring of the said land;
- (v) details of actual hiring charges payable, actual hiring charges paid, actual period of hiring, actual payment made till date;
- (vi) information as to the said lands in occupation by the Army, ITBP, etc are needed for any public purpose, if so, does the Government intend to

acquire the said lands and when the authorities are going to acquire the said lands;"

Mr. Karma Thinlay, learned Senior Government Advocate appearing for all the parties, is granted further two weeks time to file an affidavit in response to the aforestated directions, sought for.

It is brought to our notice that *W.P. (PIL) No. 17 of 2012 (Public of Lachen vs. Chief Secretary, Government of Sikkim & Ors.)*, was disposed of, on consideration of the submissions made by all the concerned parties, making the following directions way back on 17.09.2014:

- "(i) The respondents-State will write a letter within a period of two weeks from today, to respondent-Army to make the payment of remaining 50% of the hiring charges to the occupier of the land.
- (ii) The respondents-Army will consider and make the payment as per letter of the State Government to the occupier of the land, as early as possible, but not later than a period of three months from the date of receipt of the letter from the State Government.
- (iii) Respondents-State will specifically clarify that occupier of land will be entitled to 50% of hiring charges from the date of taking actual possession of their land, details of which have been furnished in this Court.
- (iv) So far as interest on delayed payment of amount and enhancement of hiring charge are concerned, it will be open for the individual petitioner to agitate the matter before appropriate forum, in accordance with law.
- (v) The respondents will take necessary steps in respect of acquisition of land in dispute, in accordance with law, as early as possible. It is needless to mention that soon after completion of acquisition proceedings, the compensation in respect of land will be paid to landowners in accordance with law."

but the directions have not been complied with till date.

It is further stated that the Court has prescribed time schedule also therein.

We grant liberty to the petitioners to file a contempt petition impleading the persons by name, who are responsible for non-implementation of the order in its letter and spirit.

Call on 01.05.2017.

Sd/-
Judge
05.04.2017

Sd/-
Chief Justice
05.04.2017

jk/ds **Index : ~~Yes~~ / No**
 Internet : Yes / ~~No~~