



IN THE GAUHATI HIGH COURT
(The High Court of Assam, Nagaland, Mizoram and Arunachal Pradesh)
KOHIMA BENCH

WP(C) No. 241/2022

1. Marsanen Ozukum,
S/o Late Toshimanen Ozukum,
Resident of Lower Chandmari Colony,
Kohima Town, Nagaland-797001.
2. Aotula Ozukum,
W/o Late Toshimanen Ozukum,
Resident of Lower Chandmari Colony,
Kohima Town, Nagaland-797001.
3. Supongwabang Ozukum,
S/o Late Toshimanen Ozukum,
Resident of Lower Chandmari Colony,
Kohima Town, Nagaland-797001.
4. Roasenla Ozukum,
D/o Late Toshimanen Ozukum,
Resident of Lower Chandmari Colony,
Kohima Town, Nagaland-797001.
5. Moajungba Ozukum
S/o Late Toshimanen Ozukum,
Resident of Lower Chandmari Colony,
Kohima Town, Nagaland-797001.

All are legal representatives of the deceased petitioner-
Late Toshimanen Ozukum,
S/o Late Mapozulu,
Resident of Lower Chandmari, Kohima Town,
Nagaland.

.....Petitioners.

-Versus-

1. The State of Nagaland,

Represented by the Commissioner & Secretary,
Department of Urban Development,
Government of Nagaland, Kohima.

2. The Director,
Directorate of Urban Development Department,
Nagaland, Kohima.
3. The Commissioner,
Kohima, Nagaland.
4. The Deputy Commissioner,
Kohima, Nagaland.
5. The First Class Magistrate,
Office of the Deputy Commissioner,
Kohima, Nagaland.

.....Respondents.

For the Petitioners : Mr. L. Iralu,
Medo Kiewhuo,
Khriezo Kirha.

.....Advocates.

For the Respondents : Mr. I. Imsong, Addl. AG, Nagaland.

.....Advocate.

**BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN**

Date(s) of Hearing :- 27.01.2026

Date on which judgment is reserved :- 27.01.2026

Date of pronouncement of judgment :- 06.04.2026

Whether the pronouncement is of the :- N/A

operative part of the judgment?

Whether the full judgment has been pronounced? :- Yes

JUDGMENT AND ORDER (CAV)

Heard Mr. L. Iralu, learned counsel for the petitioners and also heard Mr. I. Imsong, learned Additional Advocate General, Govt. of Nagaland, appearing for the State respondents.

2. In this petition, under Article 226 of the Constitution of India, the petitioners have challenged two **Eviction Notices, dated 17.03.2021 (Annexure-P6)** and dated **19.10.2022 (Annexure-P21)** also the **order dated 08.07.2022 (Annexure-P20)**. Alternatively, the petitioners also prayed for issuing direction to the respondent Nos.4 and 5, to conduct proper survey and verification as directed by the respondent No.3, in the order dated 08.07.2022.

3. The background facts leading to filing of the present petition are briefly stated as under:-

“The present petitioners are the legal representatives of the deceased employee, namely, Late Toshimanen Ozukum. While the predecessor of the present petitioners, namely, Late Toshimanen Ozukum was serving as the Town Planner, under the erstwhile Office of the Chief Town Planner, had purchased two plots of land in the year 1998 located on the opposite side of a building at Lower Chandmari, Kohima. Later on, he was told that the building was a quarter belonging to the Town Planning Department, now re-

designate as Urban Development Department. As such, the predecessor of the petitioners had occupied the quarter on the basis of an allotment order. The said quarter was identified as **Quarter No.CH/TP-1**. There was no electricity or water supply connection in the said quarter and the predecessor of the present petitioners, had at his own expense, connected both power as well as water supply, to the said quarter and also he had renovated and refurbished the said quarter at his own expense and constructed brick fencing wall, around the entire premises and also constructed RCC porch and RCC room adjoining the quarter and paid the electricity and water bills himself.

Thereafter, he retired on superannuation and after his retirement he received a show-cause notice under Section 5 of the Nagaland Eviction of Persons in Unauthorized Occupation of Public Land Act, 1971, asking him to show-cause as to why he should not be evicted for illegally occupying the quarter belonging to the Directorate of Urban Development, Nagaland, Kohima. The predecessor of the present petitioners then submitted his reply on 30.09.2020, stating that he had purchased the land from the ancestral landowners as there was no record of the Government acquiring the land and thereafter, an eviction notice was issued to him on 17.03.2021, without any material particulars to show how he was in unauthorized occupation of public land.

Thereafter, the predecessor of the present petitioners and the landowner had submitted RTI applications to the concerned authorities on 26.03.2021. And while they were awaiting for the RTI replies, the predecessor of the present petitioners filed an

appeal against the eviction notice under Section 12 of the Act. Then, during the pendency of the appeal, the petitioner as well as the landowner had received the replies on the RTI queries and in the said replies it was disclosed that the respondent No.2 i.e. the Directorate of Urban Development, had categorically stated that there was no such quarter as CH/TP-1 in their building inventory list. The Deputy Commissioner, Kohima had also replied to one of the queries stating that there was no land allotment or patta issued to the Urban Development Department in Kohima Town, except for one at P.R. Hill for multi-parking. It was also answered to a query as to whether the Government had acquired any land at Lower Chandmari, that the Government had acquired 9.05 acres of land from two individuals at Chandmari. But, there was no trace map or no information as to where exactly was this acquired land situated and the receipt also indicates that the land appeared to have been acquired only in 1971, whereas the quarter was built in 1967.

Thereafter, the predecessor of the present petitioners had enclosed the said RTI replies and filed them before the Respondent No.3. But the respondent No.3, without considering the material particulars came to an erroneous, arbitrary and perverse conclusion that the petitioner was in unauthorized occupation of public premises. But, the respondent No.3 also directed the Deputy Commissioner, Kohima to proceed with eviction only after proper survey and verification of the land. And in that view of the matter, the respondent No.3 could not have come to a finding that the petitioner was in unauthorized occupation of public premises and then direct the Deputy Commissioner, Kohima to properly survey and verify the land, and this goes to show that no enquiry was

done as provided under Section 6 of the Act to conclude that there is unauthorized occupation of public land and without proper survey and verification, the eviction notice has been issued to the petitioner on 19.10.2022, giving him 7 days time to vacate the same.”

4. The Respondent Nos.1 and 2 have filed their affidavit-in-opposition. In their affidavit, they had taken a stand that the petition is not maintainable, as nowhere, they have raised any question of law for invoking the extraordinary jurisdiction of this Court and that the petition is also not maintainable for non-joinder of necessary parties, as the Urban Development Department is a necessary and material party and that the Director cannot represent the Urban Department and that no fundamental/legal right of the petitioner has been violated by the respondents and that the **Notice No.REV/URBAN/DEV/2009 (PT-I)/383, dated 18.09.2020**, under Section 5(1) of the Nagaland Eviction of Persons in Unauthorized Occupation of Public Land Act, 1971 was not issued to the petitioners. Besides, the **Government Quarter No.CH/TP-1, (Type VI)**, allotted to him at any point of time and that the predecessor of the present petitioners did not vacate the **Government Quarter No.CH/TP-1, Type VI**, allotted to him vide order No.TPO/G-76/91-92/830, dated 27.05.1998 (Annexure-P4 of the writ petition) and an eviction notice bearing No.UD/T-135/04/(Pt II)/513, dated 04.09.2019 was issued by the Department in pursuance to the Government Notification No.UDD/2/ESTT/10/MISC/2015, dated 08.07.2019 and as per clause (iv) and (v) of the Government Office Memorandum No.SAB-11/10/95, dated 14.03.2005, the employee had to vacate the Government quarter within 1 (one) month and imposed penalty for

overstay, amounting to Rs.1,54,000/- only (one lakh fifty four thousand only), which is 10 times the normal rent from the date of retirement till July 2019.

However, the predecessor of the petitioners had failed to comply with the eviction notice dated 04.09.2019, and as such, by the letter No.UDT/T-135/04/(Pt-II)2025, dated 16.03.2020, addressed to the respondents for appropriate action against the predecessor of the petitioners for non-compliance of the eviction notice and for illegally occupying the Government quarter as per the Government Rules and Regulations. And thereafter, the vacation notice dated 18.09.2020, was issued on the ground that the predecessor of the petitioners was illegally occupying the **Government Quarter No.CH/TP-1** belonging to the Directorate of Urban Development, Nagaland, Kohima and hence the predecessor of the petitioners was directed to vacate the same within 1 (one) month of the notice and it is clear that the predecessor of the petitioners has been occupying the **Government Quarter No.CH/TP-1, Type VI**, situated at Chandmari Colony, Kohima and is still occupying even after his retirement from service illegally and unauthorizedly and that the predecessor of the petitioners vide his application dated 27.02.1998 applied for allotment of department quarter No.CH/TP-1 at Chandmari, Kohima, which was allotted to him which preposterously disputing the right and ownership of the same. It is also stated that the plot of land, where the Government quarter stood, was purchased by the British Government way back in the year 1935, from the landowners and the same falls within the 1934-35 settlement map of Kohima, which was subsequently inherited by the State Government from the Britishers and the land is covered by the map of compensated areas of Kohima Town.

It is also stated that the predecessor of the petitioners is trying to become the owner of the property illegally and fraudulently by approaching this Court and sometimes in the year 2006, the predecessor of the petitioners while serving as Senior Town Planner, was transferred to Dimapur, for which by the Order No. UD/T-76/2001/583, dated 21.02.2007, the predecessor of the petitioners was requested to vacate the quarter occupied by him at Chandmari, but due to non-compliance of the said order, the department contemplated for necessary action against him, vide Order No. UD/ESTT-76/04/(PT-1), dated 25.04.2007 and as such, predecessor of the petitioners had vacated the quarter and concomitantly tendered his apology vide letter dated 20.09.2007. Subsequently, the predecessor of the petitioners, vide his letter dated 31.10.2007, inter alia stated that he had occupied the departmental quarter No.CH/TP-1, Type VI, at Chandmari, Kohima and trying his level best to cancel the land transaction and protect the quarter from further encroachment by private individual. It is also stated that the predecessor of the petitioners was allotted **Government Quarter No.CH/TP-1, Type VI, vide order No.TPO/G-76/91-92, dated 27.05.1998.**

However, the RTI query sought information for **quarter No.CH/TP-1, Type V**, and that the Executive Engineer is not the quarter allotment authority and he lacks the necessary information and he also sought information for **quarter No.CH/TP-1, Type VII** and that there was no procedural lapse and the impugned order was duly passed by the competent authority i.e. the Commissioner, Nagaland in the impugned order dated 08.07.2022, had specifically been noted that the predecessor of the petitioners had not approached the said appellate authority with clean hands, and mislead the appellate authority by

suppressing facts on record to obtain Stay Order of the eviction notice, dated 17.03.2021. It is also stated that eviction order dated 17.03.2021, was passed after the compliance of all the required procedure and the question of exercising survey and verification of the land in question does not arise as the petitioner was found to be in illegal possession of the Government property. And under the aforementioned facts and circumstances, it is contended to dismiss the petition.

5. The petitioners have filed their affidavit-in-reply to the aforesaid affidavit in opposition of the respondent authorities, wherein he had denied all the statement and averment made by the respondent Nos.1 and 2 in the affidavit-in-opposition.

6. Mr. Iralu, learned counsel for the petitioners, submits that though the predecessor of the present petitioners was serving in the Urban Development Department as Town Planner, he had purchased the land, where the quarter is presently situated and the abandoned quarter which was standing there, was repaired by him and thereafter, he has been possessing the same. Further, Mr. Iralu submits that the impugned orders were issued without complying with the relevant provisions of law and also the RTI replies obtained by the predecessor of the petitioners from different authorities, shows that the alleged **quarter No.CH/TP-1, VI** was not in existence in the records of the Department of Town and Country Planning and the impugned notices and eviction orders were issued without a proper survey and verification of the land in question and that the predecessor of the petitioners renovated the abandoned quarter by connecting electricity and water supply and refurbished the same and also renovated the same by constructing boundary wall. And on such count, Mr. Iralu submits, the two impugned **Eviction Notices**,

dated 17.03.2021 (Annexure-P6) and dated 19.10.2022 (Annexure-P21) also the order dated 08.07.2022 (Annexure-P20), are so arbitrary and capricious that no reasonable person would have ever arrived at the same and as such the same are liable to be set aside. Under such circumstance, he has contended to allow this petition.

6.1. Mr. Iralu has also referred one decision of this Court in

- (i) **M. Jongshi & Ors. vs. State of Nagaland & Ors.**, reported in **2017 (1) GLT 668.**
- (ii) **State of Madhya Pradesh vs. Smt. Shiv Kunwarbai, etc.**, reported in **(1971) 2 SCC 152;**
- (iii) **Government of Andhra Pradesh vs. Thummala Krishna Rao & Anr.**, reported in **(1982) 2 SCC 134;**
- (iv) **State of Rajasthan vs. Padmavati Devi (Smt) (Dead) by LRs. & Ors.**, reported in **1995 Supp (2) SCC 290;** and
- (v) **Sulochana Chandrakant Galande vs. Pune Municipal Transport and Ors.**, reported in **(2010) 8 SCC 467.**

7. Per contra, Mr. Imsong, learned Additional Advocate General, Government of Nagaland, submits that the quarter was allotted to the predecessor of the petitioners and he has been occupying the same unauthorisedly, and though he has taken a plea that he has purchased the same by executing one sale deed, yet, the said sale deed was not registered in spite of the value of the land in question, being more than Rs.3,00,000/-. Referring to Section 17 of the Registration Act, 1908 Mr.

Imsong submits that the said Section requires that any immovable property of worth Rs. 100 shall be compulsorily registered.

7.1. Mr. Imsong also submits that the claim made by the predecessor of the petitioners, has no legal basis, and the documents, based on which, he claimed ownership of the land is untenable for not being registered documents, in view of the provision of Section 17 of the Registration Act, 1908. Further, Mr. Imsong, referring to various annexure, so filed along with the affidavit of the respondent authorities, submits that the predecessor of the petitioners had applied for the quarter vide Annexure-1 of the affidavit-in-opposition on 27.02.1998, while he was working as Town Planner in Kohima and on 27.05.1998, the quarter was allotted to him, being **Quarter No.CH/TP-1, Type VI** and that even after retirement also he had occupied the same and after his death, the present petitioners have been occupying the same, for which eviction notice dated 04.09.2019, was issued to him asking him to vacate the same within a period of one month. But, he failed to vacate the same and thereafter, the Directorate of Urban Development, Nagaland, Kohima, vide Annexure-4, a letter dated 16.03.2020, had asked the Deputy Commissioner, Kohima to initiate appropriate action, as per Government Rules and Regulations. And thereafter, the Deputy Commissioner, vide letter dated 18.09.2020, had issued vacation notice, to vacate the quarter within one month. Mr. Imsong, drawing the attention of this Court to Annexure-6, which is a notice dated 06.02.1984, submits that no private individual can claim land within the 1934-35 settlement map of Kohima. He further drew the attention of this Court to Annexure-7, by which the predecessor of the petitioners, was asked on 21.02.2007, to vacate the quarter occupied by him on his transfer as Senior Town Planner/Secretary to Dimapur, and then vide letter dated

25.04.2007 (Annexure-8), the Chief Town Planner asked the Principal Secretary, Urban Development Department, Nagaland, Kohima to take action against the predecessor of the petitioners and thereafter, vide Annexure-9, the predecessor of the petitioners had tendered an apology and requested to consider his case on humanitarian ground and also to send him back to the Development Authority, so that he could carry on the ongoing project and complete the same within the scheduled time and vide Annexure-10, the predecessor of the petitioners had requested the Chief Town Planner, Nagaland, Kohima regarding land settlement and the allotment of the quarter and that the claim of the predecessor of the petitioners was not founded upon any legal basis and under such circumstances, he has contended to dismiss this petition.

8. Having heard the submission of learned counsel for both the parties, this Court has carefully gone through the petition and the documents placed on record and also gone through the decisions referred by learned counsel for both the parties.

9. It appears that the predecessor of the petitioners had claimed that he purchased the land by executing a sale deed dated 16.03.1998, by paying a sum of Rs.80,000/-, measuring (1) 74' X 33' (ft) and (2) 59' X 18' (ft), respectively. But, it appears that the alleged sale deed has not been registered despite the value of the same being more than Rs.100/ as required by Section 17 of the Registration Act 1908. Mr. Imsong, learned Additional Advocate General, has, however, pointed out that the value of the land would be about Rs.3,00,000/-. And as such, the unregistered sale deed, by which he allegedly claimed having purchased the land, cannot be relied upon as the same had no legal sanctity.

10. Further, from Annexure-4 of the petition, which is an allotment order dated 27.05.1998, indicates that the predecessor of the petitioners was allotted **Type VI quarter No.CH/TP-1** and further, from various annexure, so exhibited by the respondent Nos.1 and 2 herein, goes a long way to show that the said quarter was allotted to the predecessor of the petitioners while he was serving as Town Planner in Urban Development Department in Kohima. It also appears from the Annexure-9 of the affidavit-in-opposition, filed by the Respondent Nos.1 and 2 that the predecessor of the petitioners had tendered apology to the Principal Secretary, Urban Development Department, Government of Nagaland, assigning the reason for which he could not vacate the quarter in time.

11. Thus, from the various documents, which are annexed to the affidavit-in-opposition filed by the respondent Nos.1 and 2, even from his own document, Annexure-P-4, the allotment order dated 27.05.1998, it becomes apparent that the **Type VI Quarter No.CH/TP-1** was allotted to him. For ready reference the Annexure-P-4 is extracted herein below:-

**GOVERNMENT OF NAGALAND
OFFICE OF THE CHIEF TOWN PLANNER
NAGALAND, KOHIMA**

ORDER

Dated Kohima the May 98

No. TPO/G-76/91-92. The following Govt. Quarters are hereby allotted to the following officer and staff with immediate effect, as recommended by the Accommodation Board.

<u>Sl. No.</u>	<u>Name of Designation</u>	<u>Type of Qr. & No.</u>
1.	<u>Shri. M Toshimenent P.</u>	<u>VI No. CH/TP-1</u>
2.	Smt. Megoukieno L.D.A	No. JH/TP-5
3.	Smt. Ngangshitulas.A	I No. PWD/337
4.	Smt. Kezhadi leno P/Astt.	III No. LERIE/TP-9
5.	Shri. J.T Anungba Surveyor	III No. LERIE/TP-10

Sd./
(KEN KEDITSU)
Sd/-Senior Town Planner
Nagaland, Kohima.

12. And admittedly, the same was not vacated till date, even after his retirement. And though several notices were issued to him to vacate the same, he failed to vacate the same. Instead, on the basis of an unregistered sale deed, he claimed ownership of the land and disputing the authority of the department over the said plot of land.

13. Though the predecessor of the petitioners had disputed existence of the quarter by producing some RTI replies, Annexure-P4-A, yet, it appears that the said reply relates to **Type V quarter**. Said reply is extracted herein below for ready reference.

**GOVERNMENT OF NAGALAND
OFFICE OF THE EXECUTIVE ENGINEER PWD(H)
CENTRAL DIVISION: KOHIMA**

No. EE/CD/TB-8/2009-10-2

Dated, Kohima the 11th June 2018

To

The Chief Engineer, PWD(H)
Nagaland, Kohima.

Sub: Submission of Inspection Report of Qtr.No. CH/TP-1.

Sir. With reference to the subject cited above, I have the honor to submit herewith the following Inspection report of Govt. Qtr.No. CH/TP-I.

1. The said Govt. Qtr. No. CH/TP-I is under building register/book.
2. The said **Govt. Qtr. is Type-V** as per the record.
3. The building was constructed in the year around 1967 as per the record.
4. On inspecting the building, it is found that the said building is deteriorating.

This is for your kind information and further necessary action please.

Enclosed: As stated.

Yours faithfully.
(Er. OLEMCHILA.I. YADEN)
Executive Engineer, PWD (H)
Central Division: Kohima.

13.1. The RTI application Annexure-P-10 indicates that reply was sought for in respect of UD/CH-1, Type-VII and Type V quarters. The application is extracted herein below for ready reference:-

To

The Executive Engineer
Town Planning Works Division
Nagaland: Kohima

Sub:- Seeking information through RTI Act

Sir,

I shall be highly grateful if you would kindly provide the following information under the above RTI Act:

1. What was the total expenditure incurred in the construction of quarter NO UD/CH-1 type V11 by the department in Lower Chandmari Kohima ? Please provide a photo copy of the total expenditure amount.
2. Who was the contractor who constructed the above mentioned quarter and the year of completion. Please provide a photo copy of the registration card of the contractor.
3. Whether your department has spent any amount in the construction of boundary wall, renovation and rewiring of the government quarter NO.CH/TP-1 type V in Lower Chandmari? If so, please provide a photo copy of the expenditure voucher.
4. If yes as in para 3 above please reply who has done the work and in which year.

Please reply within a period of 30 days from today the 26th March, 2021.As per rule, I attached herewith Rs 10/-(Rupees ten) in cash. Attached :Rs 10/-.

Yours faithfully,
Sd./
(Setu Angami)
Kohima Village

14. And as such, the attempt, so made by the petitioners, to convince this Court, regarding non-existence of the quarter, is not only misleading, but also an abuse of the process of the Court.

15. It is not in dispute that the jurisdiction of this Court under Article 226 of the Constitution of India is an equitable jurisdiction. In view of the apology tendered by the predecessor of the petitioners and also various letters and orders annexed by the respondent Nos.1 and 2 along with the petition, left no iota of doubt in the mind of this Court that the claim being made by the predecessor of the petitioners is illegal and cannot be acceded to. As such the petitioners herein are not entitled to any relief on equity.

16. It is also well settled that decisions rendered by administrative authorities can be interfered with by high courts in exercise of Article 226 powers, however, sparingly. In the case of **W.B. Central School Service Commission v. Abdul Halim** reported in (2019) 18 SCC 39, while considering the scope of interference under Article 226 in an administrative action, Hon'ble Supreme Court has held that:-

“31. In exercise of its power of judicial review, the Court is to see whether the decision impugned is vitiated by an apparent error of law. The test to determine whether a decision is vitiated by error apparent on the face of the record is whether the error is self evident on the face of the record or whether the error requires examination or argument to establish it. If an error has to be established by a process of reasoning, on points where there may reasonably be two opinions, it cannot be said to be an error on the face of the record, as held by this Court in **Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale [**Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale**, AIR 1960 SC 137] . If the provision of a statutory rule is reasonably capable of two or more constructions and one**

construction has been adopted, the decision would not be open to interference by the writ court. It is only an obvious misinterpretation of a relevant statutory provision, or ignorance or disregard thereof, or a decision founded on reasons which are clearly wrong in law, which can be corrected by the writ court by issuance of writ of certiorari.

32. The sweep of power under Article 226 may be wide enough to quash unreasonable orders. If a decision is so arbitrary and capricious that no reasonable person could have ever arrived at it, the same is liable to be struck down by a writ court. If the decision cannot rationally be supported by the materials on record, the same may be regarded as perverse. 33. However, the power of the Court to examine the reasonableness of an order of the authorities does not enable the Court to look into the sufficiency of the grounds in support of a decision to examine the merits of the decision, sitting as if in appeal over the decision. The test is not what the Court considers reasonable or unreasonable but a decision which the Court thinks that no reasonable person could have taken, which has led to manifest injustice. The writ court does not interfere, because a decision is not perfect.’ (emphasis supplied)

17. The aforesaid decision was approved by a further decision of Hon’ble Supreme Court in **Municipal Council, Neemuch vs. Mahadeo Real Estate** reported in (2019) 10 SCC 738, wherein it was held that:

“14. It could thus be seen that the scope of judicial review of an administrative action is very limited. Unless the Court comes to a conclusion

that the decision-maker has not understood the law correctly that regulates his decision-making power or when it is found that the decision of the decision-maker is vitiated by irrationality and that too on the principle of 'Wednesbury unreasonableness' or unless it is found that there has been a procedural impropriety in the decision making process, it would not be permissible for the High Court to interfere in the decision-making process. It is also equally well settled that it is not permissible for the Court to examine the validity of the decision but this Court can examine only the correctness of the decision-making process. ***

16. It could thus be seen that an interference by the High Court would be warranted only when the decision impugned is vitiated by an apparent error of law i.e. when the error is apparent on the face of the record and is self-evident. The High Court would be empowered to exercise the powers when it finds that the decision impugned is so arbitrary and capricious that no reasonable person would have ever arrived at. It has been reiterated that the test is not what the Court considers reasonable or unreasonable but a decision which the Court thinks that no reasonable person could have taken. Not only this, but such a decision must have led to manifest injustice.”

(emphasis supplied)

18. In the instant case, the petitioners have failed to demonstrate that two Eviction Notices, dated 17.03.2021 (Annexure-P6) and dated 19.10.2022 (Annexure-P21) also the order dated 08.07.2022 (Annexure-P20), suffers from any infirmity or illegality. Nothing is also placed on record to that effect and also nothing could be

demonstrated from the record about any procedural lapse in passing the impugned order and in issuing eviction notices. Thus, having examined the impugned Eviction Notices and the impugned order, in the light of the proposition laid down in the cases discussed herein above, this court is unable to agree with the submission of Mr. Iralu, the learned counsel for the petitioners, that the two impugned **Eviction Notices, dated 17.03.2021 (Annexure-P6) and dated 19.10.2022 (Annexure-P21)** also the **order dated 08.07.2022 (Annexure-P20)**, are so arbitrary and capricious that no reasonable person would have ever arrived at.

19. Rather, it appears that the claim of the petitioners and their predecessor appears to be not a bona-fide one, in view of the Annexure-9 of the affidavit in opposition of the respondent authorities, vide which the predecessor of the petitioners had tendered an apology and to consider his case on humanitarian ground and also to send him back to the Development Authority, when vide letter dated 25.04.2007, (Annexure-8), the Chief Town Planner had asked the Principal Secretary, Urban Development Department, Nagaland, Kohima to take action against him. In the said letter he had admitted having occupied the quarter at Chandmari and also admitted having committed mistake in not vacating the quarter. Said letter is extracted herein below for ready reference:-

To,

The Principal Secretary,

Urban Development Department Government of Nagaland.

Sub: Tender of apology

Sir,

With reference to the subject cited above, I have the honour to state the following few lines for favour of your kind consideration and sympathetic action. That I have been working as Secretary Development Authority Nagaland since July 2006. After I have been posted to the Development Authority Dimapur the department of Urban Development issued an order to vacate the quarter at Chandmari. Since I have applied for up-gradation of my post to Addl. Chief Town Planner. I was in the hope of coming back soon. That is why I did not vacate the quarter on time which I should have not done. The mistake has been rectified and in compliance of the order I have vacated the quarter. Meanwhile I have been directed to relieve from the Secretary of DAN till further order vide order NO.UDD/DAN-6/1/2004 dated Kohima the 23rd April 2007.

During the process of trying to restructure Development Authority Nagaland there has been omission and commission on my part and I did not consult my Senior officer in decision making which is highly regretted. Now I tender my apology and swear that in future I shall not repeat the same and work only within the power vested on me.

I therefore request you to kindly consider my case on humanitarian ground and send me back to the Development Authority so that I can carry on the on-going Project and complete within the schedule of time or cross transfer me with Zambemo Nguillie as he is also overburdened to look after DAN and SUDA which are located at two different Districts and for which act of kindness I shall remain ever grateful to you.

Yours faithfully,

(M. Toshimanen)

Senior Town Planner and relieved Secretary DAN

Copy to:-

The Chief Town Planner Nagaland Kohima for information and necessary action.

(M. Toshimanen)

20. This court has gone through the decisions, so referred by Iralu, and is of the view that the propositions, so laid down in the said cases, proceeds on their own fact and not applicable in all force to the given facts and circumstances of the case in hand. The petitioners herein have failed to demonstrate bona-fide claim over the premises.

21. In that view of the matter, this Court finds no merit in this petition. And accordingly, the same stands dismissed, however, with a cost of Rs. 10,000/-, (Rupees ten thousand) only, as it appears that the petitioner has not approached this court with clean hand and the present petition is a glaring instance of misuse of the process of the court. Further, the petitioners are directed to vacate the quarter as per the notice dated 04.09.2019 (Annexure-3 of the affidavit-in-opposition) by paying the monthly rent, as quantified and indicated in the said Annexure-3.

22. The costs shall be deposited with the Secretary, Gauhati High Court Legal Services Authority, Kohima Bench, within a period of four weeks.

Sd/- Robin Phukan
JUDGE

Comparing Assistant