

GAHC040004432024



2025:GAU-AP:1327

THE GAUHATI HIGH COURT

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

ITANAGAR BENCH

WRIT PETITION (C) NO. 151[AP]/2024

1. Smti. Likha Nap, Wife of Sri N.L. Kamin, Resident of Nirjuli, P.O. & P.S. Nirjuli, District - Papumpare, Arunachal Pradesh.
2. Shri Joram Appa, Son of Late Joram Tago, Resident of Papu Nallah, Naharlagun, P.O. Naharlagun, P.S. Papu Hill, District - Papum Pare, Arunachal Pradesh.

.....Petitioners

-Versus-

1. The State of Arunachal Pradesh, Represented through the Secretary [Land Management], Government of Arunachal Pradesh, Itanagar.
2. The Director [Land Management], Government of Arunachal Pradesh, Itanagar.
3. The Deputy Commissioner, Itanagar Capital Complex, Itanagar, Arunachal Pradesh.
4. Smti. Techhi Yakar, Daughter of Shri Techhi Murkhi, Resident of Model Village, P.O. & P.S. Naharlagun, District - Papum Pare, Arunachal Pradesh.

.....Respondents

Advocates :

Petitioner : Mr. D. Panging, Advocate

Respondent nos. 1 – 3 : Mr. N. Ratan, Additional Advocate
General, Arunachal Pradesh

Respondent no. 4 : Mr. P.D. Nair, Advocate
Mr. T. Torum, Advocate

Dates of hearing : 24.11.2025 & 26.11.2025

Date of pronouncement of judgment : 26.11.2025

Whether the pronouncement is of the
Operative part of the judgment ? : No

Whether the full judgment has been
Pronounced ? : Yes

BEFORE
HON'BLE MR. JUSTICE MANISH CHOUDHURY

JUDGMENT & ORDER

1. In this writ petition preferred under Article 226 of the Constitution of India, the two petitioners have challenged the legality and validity of an Order dated 11.03.2024 passed by the Secretary, Land Management, Government of Arunachal Pradesh [the respondent no. 1] in Appeal Case no. 01 of 2024 whereby a Land Possession Certificate [LPC] no. DC/LM/LPC-14/08[Prt] dated 29.05.2017 issued in favour of the petitioner no. 1 has been cancelled.

2. The necessary and relevant facts leading to the passing of the impugned Order dated 11.03.2024 can be exposted, at first.
3. It is stated that the marriage between the petitioner no. 2 and the respondent no. 4 was solemnized in the year 2008 according to the customary laws and traditions at Naharlagun, Arunachal Pradesh. Out of the wedlock, one son was born to them.
4. It is the case of the petitioners that the petitioner no. 2 purchased a residential/commercial plot of land located at Village – Lekhi, Post Office & Police Station – Naharlagun, District – Papum Pare, Arunachal Pradesh having a total area of 1218.00 M² [0.1218 Hectare] [hereinafter referred to as 'the subject-plot', for short] from one Techhi Dakto in the year 2007. The subject-plot is with the following boundaries :- North : Plot of Sri Taba Bipul; South : Plot of J. Ratan; East : NH – 415; and West : River. After purchase of the subject-plot, the petitioner no. 2 applied for a Land Possession Certificate [LPC] before the Deputy Commissioner, Papum Pare District, Yupia [the respondent no. 3]. After due enquiry and based on a Report dated 20.12.2007 of the EAC, Naharlagun and a No Objection Certificate [NOC] dated 23.11.2008 given by the DFO, Bandardewa, a Land Possession Certificate [LPC] bearing no. DC/LM/LPC-14/08 was issued in favour of the petitioner no. 2 on 19.01.2009.
5. As per an Office Memorandum dated 19.12.1988 of the Land Records Department, Government of Arunachal Pradesh, a duly issued LPC is considered to be essential for an individual for obtaining financial facility from financial institutions. The petitioner no. 2 stated to have mortgaged the subject-land on the strength of the LPC dated 19.01.2009 by entering into a Deed of Mortgage with the State Bank of India, Naharlagun Branch for availing loan facility. The State Bank of India, Naharlagun Branch on execution of the Deed of Mortgage extended a Cash Credit facility of Rs. 40.00 lakhs and a Term Loan of Rs. 10.00 lakhs to the petitioner no. 2 on 13.05.2015. After availing such financial facility, the petitioner no. 2 constructed a RCC Building on the subject-plot at Lekhi Village.

6. It was in the year 2015, the respondent no. 4 as complainant filed an application against the petitioner no. 2 under Section 12 of the Protection of Women from Domestic Violence Act, 2005 [‘the Domestic Violence Act’, for short] before the Court of learned Judicial Magistrate, First Class, Capital Complex at Yupia [‘the Trial Court’, for short] and the said case was registered as Domestic Violence Case no. 06/2015. By the application filed, the respondent no. 4 sought for appropriate orders under Section 18 [Protection Order], Section 19 [Residence Order], Section 20 [Monetary Relief], Section 21 [Custody Order] and Section 22 [Compensation Order]. In the application, the subject-plot with the RCC Building standing thereon had been described as the shared household by the respondent no. 4 while alleging commission of domestic violence by her husband, that is, the petitioner no. 2.
7. In Domestic Violence Case no. 06/2015, the Trial Court after considering the materials on record and hearing the complainant, formed an opinion that in view of the facts and circumstances of the case, the case was a fit one to pass an ad-interim ex-parte residence order and custody order in respect of the minor son of the complainant who was then staying with the complainant, until disposal of the case. The ad-interim ex-parte order was passed on 10.06.2015 directing the respondents including the petitioner no. 2 or any of his relatives to refrain from doing any act of domestic violence against the complainant and her son. By the same ad-interim ex-parte order, the Trial Court while issuing notice to the respondents and calling for a domestic incident report from the CDPO/Protection Officer, directed the respondents not to alienate the subject-plot without obtaining permission from the Trial Court till the disposal of the case.
8. The petitioners have stated that after clearance of the loan availed from the State Bank of India, Naharlagun Branch by the petitioner no. 2, the LPC clearly stood in the name of the petitioner no. 2. On 07.10.2016, the petitioner no. 2 executed a registered Deed of Gift with the petitioner no. 1 as the donor and the donee respectively. In the Deed of Gift, it was stated that the donor [the

petitioner no. 2] was the absolute owner and in possession of the subject-plot with payment of up-to-date revenue and the donee [the petitioner no. 1] a near relative of the donor [the petitioner no. 2]. The donor for the great love and affection towards the donee [the petitioner no. 1] had gifted the subject-plot out of free consent, will, without fraud, coercion, etc. The Deed of Gift further covenanted that the donee [the petitioner no. 1] at all times would peacefully hold, occupy, possess and enjoy the subject-plot so gifted and receive and would take the rents, issues and profits thereof without any hindrances whatsoever from or by the donor [the petitioner no. 2] or by any person or persons claiming from, under or in trust of him.

9. On the strength of the registered Deed of Gift dated 07.10.2016, the petitioner no. 2 applied for issuance of an LPC in her favour in respect of the subject-plot. Based on the registered Deed of Gift executed before the Sub-Registrar, Itanagar Capital Complex, Itanagar on 07.10.2016, the respondent no. 3 issued an LPC bearing no. DC/LM/LPC-14/08[Prt] dated 29.05.2017 in favour of the petitioner no. 1 in respect of the subject-plot.
10. The respondent no. 4 had also filed an application on 06.09.2016 under Section 19[c] of the Domestic Violence Act for a direction to restrain the petitioner no. 2 from alienating or disposing of the shared household or encumbering the same. After hearing the parties, the Trial Court concluded that the RCC Building standing on the subject-plot was constructed by the parties during the subsistence of their marriage and the building was used for commercial purpose. Having regard to the facts and circumstances of the case, the relief sought for by the respondent no. 4 claiming the basement of the building as shared household was not granted. The Trial Court by an Order dated 24.08.2017 in Misc. Case no. 12/2016, arising out of Domestic Violence Case no. 06/2015, directed the petitioner no. 2-husband to pay a sum of Rupees ten thousand per month to the respondent no. 4-wife towards monthly rent for an alternative accommodation from the month of August, 2017 onwards, as she was not allowed to live in the basement of the RCC Building.

11. In another proceedings, Misc Case no. 10/2015, which finally culminated in an Order dated 28.07.2016 passed in Criminal Revision Petition no. 01[AP]/2016 before this Court, the petitioner no. 2-husband was directed to pay an amount of Rupees ten thousand per month as interim maintenance to the respondent no. 4-wife till final disposal of Maintenance Case no. 10/2015. These two directions to pay Rupees ten thousand each in Domestic Violence Case no. 06/2015 and Maintenance Case no. 10/2015 are stated to be still in force.

12. Subsequently, the respondent no. 4 as the petitioner, instituted another proceedings under Section 10 of the Indian Divorce Act, 1869 read with Section 9, Code of Civil Procedure before the Court of learned District Judge, West Sessions Division, Yupia, District – Papum Pare [‘the District Court’, for short] seeking dissolution of her marriage by a decree of divorce on the grounds of commission of acts of domestic violence and desertion on the part of the petitioner no. 2-husband. The said petition was registered and numbered as T.S.[D] no. 08/2018–[YPA]. In the said proceedings, the petitioner no. 2 as the sole respondent entered appearance on 05.06.2018 along with his learned counsel on receipt of summons. Before the District Court, the respondent stated that he was ready to give divorce to his wife and, at the same time, disclosed that he was not willing to give any property, as claimed by his wife. The Court of learned District Judge, West Sessions Division, Yupia by a Judgment and Order dated 02.08.2018 allowed the petition and ordered that thenceforth, the petitioner therein, that is, the respondent no. 4 herein and the sole respondent therein, that is, the petitioner no. 2 herein would no longer be the wife and the husband respectively having been granted divorce. The Court further observed that the petitioner-wife [the respondent no. 4 herein] would be at liberty to file another suit claiming for any property from the respondent.

13. During the interregnum, the proceedings of Domestic Violence Case no. 06/2015 was/is in progress with the interim Order dated 10.06.2015 in operation, with no application filed by the petitioner no. 2 for its recall/vacation/modification, etc. since 10.06.2015 till date.

14. It was on 24.10.2023, the respondent no. 4 submitted a complaint before the respondent no. 3 seeking cancellation of the LPC dated 29.05.2017 issued in favour of the petitioner no. 1 on the ground that the LPC was obtained in clear violation of the Order dated 10.06.2015 passed by the Trial Court in Domestic Violence Case no. 06/2015 instituted by her. It was reiterated in the complaint that by the interim Order dated 10.06.2015, the petitioner no. 2 was directed not to alienate the subject-plot without permission from the Trial Court. The respondent no. 4 further mentioned that by an Order dated 07.12.2017, passed in Domestic Violence Case no. 06/2015, the Trial Court allowed the respondent no. 4 to stay in the basement of the RCC Building standing on the subject-plot. Yet, the petitioner no. 1 and the petitioner no. 2 conspired and got the LPC dated 29.05.2017 issued from the office of the respondent no. 3. With such contentions, the respondent no. 3 was requested to cancel the LPC dated 29.05.2017.
15. Projecting that the complaint submitted before the respondent no. 3 on 24.10.2023 was not given consideration, the respondent no. 4 as the writ petitioner preferred a writ petition, W.P.[C] no. 623/2023 stating inter alia that the LPC dated 29.05.2017 was illegally issued in respect of a shared household, that is, the RCC Building standing on the subject-plot. It was contended that the LPC was issued in favour of the petitioner no. 1 herein despite the interim protection order passed by the Trial Court on 10.06.2015 in Domestic Violence Case no. 06/2015. The writ petition came to be disposed of by an Order dated 19.12.2023 with a direction to the respondent no. 3 to consider and dispose of the complaint submitted for cancellation of the LPC dated 29.05.2017 after giving reasonable opportunity of hearing to all the three stakeholders, that is, the petitioner no. 1, the petitioner no. 2 and the petitioner no. 4 herein.
16. In deference to the direction given in the Order dated 19.12.2023 [supra], the respondent no. 3 summoned the three stakeholders for their appearance before him for consideration of the complaint dated 24.10.2023. The respondent no. 3 took into notice the direction given to the petitioner no. 2 in the interim order dated 10.06.2015 by the Trial Court to the effect that he would not alienate the

subject-plot without obtaining permission from the Trial Court. In so far as the processes followed in [a] issuance of the LPC dated 19.01.2009 in favour of the petitioner no. 2; [b] registration of Deed of Gift dated 07.10.2016 between the petitioner no. 1 and the petitioner no. 2; and [c] issuance of the LPC dated 29.05.2017 in favour of the petitioner no. 1; were concerned, the respondent no. 3 while disposing of the complaint by an Order dated 16.01.2024, had observed that the same were found to be in order. The respondent no. 3 did not interfere with the LPC dated 29.05.2017. The respondent no. 3 in its Order dated 16.01.2024 also observed that if any of the parties would feel aggrieved, they should approach the appropriate court.

17. Aggrieved by the Order dated 16.01.2024 passed by the respondent no. 3, the respondent no. 4 preferred an appeal before the respondent no. 1, which had been registered as Appeal no. 01/2024. All the three stakeholders were again summoned for a hearing. The respondent no. 1 as the appellate authority took into notice the direction made in the interim order dated 10.06.2015 by the Trial Court in Domestic Violence Case no. 06/2015 and the other events like issuance of the two LPCs. After hearing the parties and upon perusal of the materials on record, the respondent no. 1 observed that the petitioner no. 2 as the owner of the subject-plot transferred it through a Deed of Gift dated 07.10.2016 to the petitioner no. 2. The respondent no. 1 had observed that there was no justification provided in the Order dated 16.01.2024 by the respondent no. 3 with regard to the restraining order passed by the Trial Court while transferring the LPC in favour of the petitioner no. 2 on 29.05.2017. The respondent no. 1 had observed that the respondent no. 3 failed to understand that the restraining order for maintaining status quo in respect of nature, possession and character of the subject-plot would mean there cannot be any change of ownership and any attempt to do so would be in violation of the Order dated 10.06.2015. By observing that the Trial Court made the protection order operative till disposal of the case, Domestic Violence Case no. 06/2015, the appeal was allowed by the impugned Order dated 11.03.2024. The respondent no. 1 by the impugned Order also cancelled the LPC issued in favour of the petitioner no. 1 on 29.05.2017.

18. I have heard Mr. D. Panging, learned counsel for the petitioners; Mr. N. Ratan, learned Additional Advocate General, Arunachal Pradesh for the respondent nos. 1 – 3; and Mr. P.D. Nair, learned counsel along with Mr. T. Torum, learned counsel for the respondent no. 4.

19. Mr. Panging, learned counsel for the petitioners has submitted that the respondent no. 1 while dealing with the complaint dated 24.10.2023 of the respondent no. 4 and considering the appeal, had proceeded to deal with the interim Order dated 10.06.2015 passed by the Trial Court, which is a judicial order. The respondent no. 1 as the appellate authority while examining the Order dated 16.01.2024 passed by the respondent no. 3 on the complaint, had proceeded to interpret the consequence flowing out of the Order dated 10.06.2015 passed by the Trial Court in Domestic Violence Case no. 06/2015 and cancelled the LPC dated 29.05.2017 issued in favour of the petitioner no. 2, which action, according to him, is unauthorized and illegal. Mr. Panging has submitted that if the respondent no. 4 has found that the interim Order passed by the Trial Court had been violated by the petitioner no. 2, the respondent no. 4 ought to have taken recourse under the provisions of the Domestic Violence Act, instead of agitating her grievance either before the respondent no. 3 or before the respondent no. 1 who were not authorized to examine violation of a judicial order of a court of law.

20. Mr. Ratan, learned Additional Advocate General, Arunachal Pradesh appearing for the State respondent nos. 1 – 3 has fairly submitted, on instruction, that the office of the respondent no. 1 had wrongly presumed that it had the jurisdiction as the appellate authority to deal with the complaint and to examine the legality in issuing the LPC dated 29.05.2017 in the light of the interim Order dated 10.06.2015 and as per the provisions of the Arunachal Pradesh Land Settlement and Records Act, 2000. With such presumption, it had passed the impugned Order dated 11.03.2024. Mr. Ratan has placed on record a copy of an Office Letter bearing no. Secy/LM-03/Court/2025/154 dated 02.09.2025 [marked and kept as Document 'X' with the case record], addressed to him, by the Secretary-

cum-Appellate Authority, Land Management Department, Government of Arunachal Pradesh [the respondent no. 1] wherein it is mentioned that the assumption of jurisdiction by the respondent no. 1 as the appellate authority to pass the impugned Order dated 11.03.2024 in Appeal no. 1/2024 has been found out to be not proper. By the Office Letter dated 02.09.2025, it has been mentioned that the above stand taken is to be treated as the official statement from the office of the respondent no. 1.

21. The learned counsel appearing for the respondent no. 4 has submitted that it is not the procedure but the end which is material. It is submitted that the final result or outcome is of more significance than the specific steps or methods used to achieve it. It is the submission on behalf of the respondent no. 4 that in view of deliberate violation and willful disobedience of the direction made by the Trial Court, the cancellation of the LPC dated 29.05.2017 issued in favour of the respondent no. 4 was inevitable, be it through the Trial Court or through the respondent no. 1/respondent no. 3.
22. I have given due consideration to the submissions made by the learned counsel for the parties and have also gone through the materials brought on record by the parties through their pleadings.
23. The genesis of the Order dated 16.01.2024 passed by the respondent no. 3 and the impugned Order dated 11.03.2024 passed by the respondent no. 1 was the complaint lodged by the respondent no. 4 before the respondent no. 3 on 24.10.2023 alleging violation of the direction made by the Trial Court in its Order dated 10.06.2015 passed in Domestic Violence Case no. 06/2015 whereby the respondents therein including the petitioner no. 2 herein were directed not to alienate the subject-plot without obtaining permission from the Trial Court till disposal of the case. When the complaint was not given consideration, the respondent no. 4 as the writ petitioner instituted the writ petition, W.P.[C] no. 623/2023, which was disposed of by an Order dated 19.12.2023 with a direction to the respondent no. 3 to consider and dispose of the complaint dated 24.10.2023 submitted for cancellation of the LPC dated 29.05.2017.

24. At this juncture, it is pertinent to point out that whenever a writ petition is disposed of with a direction to an authority to consider a representation/complaint, etc. pending before the authority, without making an examination of the contentions raised therein or of the legal questions involved on merits and without recording any findings on the issues involved, such a direction to consider does not amount to an order to the authority to grant the relief sought for. When a Court directs an authority to consider, without examining the merits of the claim made in a representation/complaint etc., the authority is required to apply its mind to the facts and circumstances of the case and then to take a decision in accordance with law, which would include the power to refuse the relief sought for. A simple direction to consider and dispose of a representation/complaint is not to be construed as a positive direction to grant the relief sought for. 'Consider' means to look at closely and carefully; to think or deliberate on; to take into account.
25. By the Order dated 16.01.2024 passed by the respondent no. 3 did not take any action on the LPC. In the Order dated 16.01.2024, the respondent no. 3 observed that the parties could approach the appropriate Court if aggrieved. It is the appellate order which had cancelled the LPC dated 29.05.2017 which has aggrieved the petitioners herein. The Order dated 11.03.2024 by the respondent no. 1 was passed in the capacity of an appellate authority in an appeal, which was at the instance of the respondent no. 4.
26. It is of worthwhile to keep in mind that the Order dated 10.06.2015 was passed by the Trial Court while hearing an application filed under Section 12 of the Domestic Violence Act and in the course of the judicial proceedings of Domestic Violence Case no. 06/2015. In exercise of the powers conferred on the Trial Court under the provisions of Section 18 to Section 22 of the Domestic Violence Act, the Trial Court has authority and jurisdiction to pass protection orders, residence orders, monetary reliefs, custody orders and compensation orders. Under Section 18[e] with heading 'protection orders', the Trial Court can, after giving the aggrieved person and the respondent an opportunity of being heard

and on being prima facie satisfied that domestic violence has taken place or is likely to take place, pass a protection order in favour of the aggrieved person and prohibit the respondent from alienating any assets held or enjoyed jointly by the aggrieved person and the respondent. Under Section 19, the Trial Court has the power to pass a residence order restraining the respondent from dispossessing or in an other manner disturbing the possession of the aggrieved person from the shared household, whether or not the respondent has a legal or equitable interest in the shared household. Section 23 of the Domestic Violence Act has granted power the jurisdiction to the Trial Court to pass such interim order as it deems just and proper. If the trying Magistrate is satisfied that an application prima facie discloses that the respondent is committing, or has committed an act of domestic violence or that there is likelihood that the respondent may commit an act of domestic violence, the Court may grant an ex-parte order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under Section 18, Section 19, Section 20, Section 21 or as the case may be, Section 22 against the respondent.

27. The Trial Court has also been provided with the jurisdiction under Section 27 of the Domestic Violence Act to enforce its orders throughout India. Section 31 has laid down that a breach of protection order, or of an interim protection order, by the respondent shall be an offence under the Domestic Violence Act and shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or in both. The offence shall, as far as practicable, be tried by the Magistrate who has passed the protection order or the interim protection order the breach of which has been alleged.
28. The Order dated 10.06.2015 passed by the Trial Court Domestic Violence Case no. 06/2015 was purportedly under the authority and jurisdiction vested in it by Section 18 to Section 22 read with Section 23 of the Domestic Violence Act. As the Order dated 10.05.2015 was in the nature of an interim protection order restraining the respondent therein, that is, the petitioner no. 2 herein from alienating the subject-plot with the RCC Building standing thereon, which the

respondent no. 4 had claimed to be the shared household, it was open for the respondent no. 4 to allege breach of the interim protection order before the Trial Court itself. Indubitably, the Order dated 10.06.2015 is a judicial order. If the respondent no. 4 as the aggrieved person is aggrieved by non-compliance and violation of the interim protection order by the respondent therein, that is, the petitioner no. 2 herein then the respondent no. 4 as the aggrieved person has the remedy of enforcing the interim protection order by approaching the Trial Court by appropriate application. Such a recourse has not been taken by the respondent no. 4 before the Trial Court to enforce the interim protection order. Had such a recourse being taken to enforce the interim protection order alleging breach of it by making a petition directly to the Trial Court as per the procedure laid down in Rule 15 of the Protection of Women from Domestic Violence Rules, 2006, the Trial Court after consideration, would have the authority and jurisdiction to enforce its own order be it a protection order or an interim protection order, if it finds that the action of the respondent, that is, the petitioner no. 2 to alienate the subject-plot was in breach of its direction.

29. If a direction was made by the Trial Court with regard to the LPC dated 29.05.2017 to the authority empowered to issue as well as to cancel such LTC or to the appellate authority like the respondent no. 1 and the impugned Order dated 11.03.2024 had been passed in deference to such direction, the impugned Order might not have suffered with such vulnerability and invalidity, as it has suffered in the present case. An order by an authority lacking the proper jurisdiction is considered void and a nullity in law having no any legal effect whatsoever. In the absence of any such direction from the Trial Court, the action taken by the respondent no. 1 for cancellation of the LPC dated 29.05.2017 by interpreting an order of a judicial court of competent jurisdiction has been found to be one which is unauthorized in law, thereby, making the impugned Order dated 11.03.2024 non-est in law. Similar is the nature of the Order dated 16.01.2024 passed by the respondent no. 3. The respondent no. 1 and the respondent no. 3 seemed to have taken the direction to consider and dispose of the complaint dated 24.10.2023 as a positive direction vesting them with the

jurisdiction to decide the complaint by taking into account the Order dated 10.06.2015 passed by the Trial Court.

30. In view of the discussions made above and for the reasons assigned therein, the impugned Order dated 11.03.2024 passed by the respondent no. 1 is set aside and quashed as it has suffered from lack of jurisdiction. Consequently, the writ petition is allowed to that extent. There shall, however, be no order as to cost.
31. On a query made to the learned counsel for the parties, it has been submitted that the proceedings of Domestic Violence Case no. 06/2015 is still pending and the interim Order dated 10.06.2015 is still in operation. If such is the position, it would be open for the respondent no. 4 to seek enforcement of the direction made in the Order dated 10.06.2015 the breach of which has been alleged, before the Trial Court by following the procedure laid down for it. If any such step is taken by the respondent no. 4, the Trial Court is to consider it on merits and in accordance with law.

JUDGE

Comparing Assistant