

GAHC040002592022



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

Case No. : CRP/7/2022

Otok Padoh @ Gammi
W/o Sri Tamuk @ Tajoy Gammi,
Village Mirku under Diking Village Jurisdiction.
PO/PS Pasighat, East Siang District, Arunachal Pradesh.
Mobile No. 7085606217 2: Yadam Pabin @ Pajing
Age:
Occupation :
W/o Sri Tabu Pajing

A Resident of JN College Compound
Pasighat

PO/PS Pasighat
East Siang District
Arunachal Pradesh.
(Under common cause of action

VERSUS

The Deputy Commissioner and 2 Ors.
Pasighat, District East Siang, Arunachal Pradesh. 2:The Additional Deputy
Commissioner
Age: 0
Occupation :
Mebo
District East Siang
Arunachal Pradesh.

3:Kangkong Borang
Age: 0
Occupation :
F/o Dr. Kohon Borang
Village Ayeng

C/o Dr. Kohon Borang

R/o Mirmir Chariali
Pasighat

PO/PS Pasighat

District East Siang
Arunachal Pradesh

Advocate for the Petitioner : Tabit Tapak

Advocate for the Respondent : GA (AP)

**BEFORE
HONBLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 09.11.2023

Heard Mr. T. Tapak, learned counsel for the petitioner and Ms. G. Ete, learned Additional Senior Government Advocate representing the respondents No. 1 and 2.

From the order dated 07.08.2023, it is seen that the case has already been proceeded ex-parte against the respondent No. 3.

2. The learned counsel for the petitioner has submitted that the present petition is based only on two issues as to whether the Deputy Commissioner has

the authority to admit the appeal on 16.04.2021 after the enforcement of the Arunachal Pradesh Civil Court Act, 2021, which came into force from 05.04.2021. He further raised the issue that the Deputy Commissioner without having any authority not only admitted the appeal on 16.04.2021 but also vide order dated 17.12.2021, transferred the appeal before the Additional Deputy Commissioner for disposal, which is also done without any authority of law and hence the order dated 16.04.2021, whereby, the appeal against the Keba decision was admitted as well as the transfer of the appeal before the Additional Deputy Commissioner for trial is arbitrary and illegal and passed without any authority. Raising those 2 (two) issues, it is submitted that from the act itself it is very clear that the Deputy Commissioner, after the enforcement of the Arunachal Pradesh Civil Court Act, 2021, he has no authority to proceed with the appeal, which is filed against the Keba decision.

3. In this context, Ms. Ete, learned Additional Senior Government Advocate has submitted that the application for appeal was filed on 26.03.2021 before the learned Deputy Commissioner, against the ex-parte Keba decision dated, 12.02.2021 and the same has been admitted on 16.04.2021. It is admitted fact that the Act came into force on 05.04.2021 but as per Proviso of Section 15 (3) of Arunachal Pradesh Civil Court Act, 2021, it is provided that the Deputy Commissioner has the authority to dispose of any appeal or civil suits pending before him prior to the enforcement of this Act, as expeditiously as possible within 1 (one) year from the date of enforcement of this Act. Further she submitted that as per Assam Frontier (Administration of Justice), Regulation 1945, the Deputy commissioner has the authority or power to entrust an Additional Deputy Commissioner to proceed with the case as per Section 16 of the said Act. Accordingly, she submitted that no illegality has been committed by

the learned Deputy Commissioner in admitting the appeal as well as transferring the same before the Court of the Additional Deputy Commissioner for disposal.

4. In this context, Mr. Tapak, the learned counsel for the petitioner has submitted that it is a fact that the Deputy Commissioner has the authority to dispose of the matter within 1 (one) year in case of any civil suit or appeal is pending before the Deputy Commissioner, but here in this instant case, it is seen that though the application for appeal was filed on 26.03.2021 but the appeal was admitted on 16.04.2021, i.e. after the enforcement of the Arunachal Pradesh Civil Court Act, 2021 and thus, the Deputy Commissioner has no authority to admit the appeal or transfer the case to the Additional Deputy Commissioner for disposal. He admitted that if the matter would have been pending before the Deputy Commissioner for disposal in that case, as per the Act he would have the authority to dispose of the matter but it is a new appeal which was admitted by him only after the enforcement of the Act and accordingly, it is submitted that the Deputy Commissioner act illegally and arbitrarily by admitting the appeal as well as by transferring the same to the Additional Deputy Commissioner.

5. After hearing the submission made by the learned counsels for both side, I have also perused the case record and especially the Arunachal Pradesh Civil Court Act. The appeal was filed against the ex-parte Keba decision, dated 12.02.2021, wherein, the present petitioner got the ex-parte decree and against the ex-parte decree, the respondent no. 3 preferred the appeal before the learned Deputy Commissioner but it cannot be denied that the appeal was admitted by the Deputy Commissioner on 16.04.2021 after the enforcement of the Civil Court Act. Accordingly, I find that the order passed by the learned Deputy Commissioner while admitting the appeal, vide order dated 16.04.2023

as well as the order of transferring the matter, dated 17.12.2021, is illegal and liable to be set aside and quashed.

6. Accordingly, this Civil Revision Petition is disposed of. However, the respondent no. 3 is at liberty to approach the proper Civil forum, if he is aggrieved by the ex-parte order of the Keba decision.

JUDGE

Comparing Assistant