

GAHC040005982021



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

Case No. : WP(C) 202/2021

1:Ampi Bini and 2 Ors.

W/o Shri Bini Tegi, R/o Raga Town, PO/PS Raga, District Kamle, Arunachal Pradesh

2: Ranjon Bini S/o Shri Timi Bini R/o Kherbari Dollungmukh

PO Kolaptukar P.S Raga District Kamle Arunachal Pradesh

3: Bini Tegi S/o Lt. Bini Jaipu R/o Raga Town PO/PS Raga

District Kamle Arunachal Pradesh

VERSUS

1:The State of AP and Others

represented by the Chief Secretary, Govt. of Arunachal Pradesh, Itanagar

2:The Commissioner Home department Govt. of Arunachal Pradesh Itanagar

3:The Director General of Police PHQ Chimpur PO/PS Itanagar

Papum pare District AP

4:The Deputy Commissioner Raga PO/PS Raga District Kamle Arunachal Pradesh

5:The Superintendent of Police Raga PO/PS Raga District Kamle

Arunachal Pradesh

6:The Officer-In-Charge Raga Police Station PO/PS Raga District Kamle

Arunachal Pradesh

7:The Sub Inspector Shri Napho Wangsa (I/O of Raga PS Case No. 30/2020)

Raga Police Station PO/PS Raga District Kamle

Arunachal Pradesh

8:Longku Tako S/o Late Longku Teshi R/o Raga PO/PS Raga District Kamle

Arunachal Pradesh.

9:Longku allin @ Akin S/o Late Longku Tasso PO/PS Raga District Kamle

Arunachal Pradesh.

10:Longku Sanjiv S/o Lt. Longku Tania PO/PS Raga District Kamle Arunachal Pradesh.

11:Shri Longku Tabak S/o Lt. Longku Tobi PO/PS Raga District Kamle Arunachal Pradesh.

12:Longku Tare S/o Lt. Longku Tob R/o Raga PO/PS Raga Kamle district AP

13:Neelu Gumtu Longku W/o Shri Longku Temin PO/PS Raga District Kamle Arunachal Pradesh.

14:Aruna Longku Maga W/o Shri Maga Obey R/o village Kemliko PO/PS Raga District Kamle Arunachal Pradesh.

15:Godak Yabom W/o Shri Godak Taper PO/PS Raga District Kamle Arunachal Pradesh.

16:Phewan Maga W/o Shri Maga Marin R/o Yada village PO/PS Raga District Kamle Arunachal Pradesh

17:Nido Yujum W/o Shri Nido Tungnya R/O Raga PO/PS Raga District Kamle Arunachal Pradesh.

18:Golom Malini W/o Shri Golom Bogi R/o Sodrik village PO/PS Raga District Kamle Arunachal Pradesh

Advocate for the Petitioner : Rajesh Sonar
R Taku

Advocate for the Respondent : GA (AP)
Sunil Mow
Ebo Mili
Madan Mili
Reken Ingo
Aruna Rai
S D Loda

**BEFORE
HONBLE MR. JUSTICE NANI TAGIA**

ORDER

Date : 13.02.2023

Heard Mr. Rajesh Sonar, learned counsel for the petitioners. Also heard Mr. Ito Riram, learned Addl. Senior Government Advocate, appearing on behalf of State Respondents No. 1 to 6; and Mr. Reken Ingo, learned counsel, appearing on behalf of private Respondents No. 8 to 17.

This writ petition, under Article 226 of the Constitution of India, has been preferred by the petitioners, with the following prayers:

“1. *Appoint Claims Commissioner in the manner stated in para 15 of the Judgment in Destruction of Public & Private Properties, In re, (supra) or the appropriate Committee to verify and assess the damage caused to the private properties of the writ petitioners during the mob protest/violence, and direct such Claims Commissioner/Committee to submit the report before this Hon’ble Court for further necessary action: And/or*

2. *Direct the concerned police and other authorities that bail applications, if any, moved by persons arrested for committing, causing, abetting or inciting the acts of violence and destruction of the private properties of the writ petitioners be allowed only on conditions that they deposit the sum equivalent to the loss quantified to have been caused by them or furnish security for such quantified loss. And, further, if any person arrested has already been allowed bail, the bail of such person may be cancelled and allowed subject to the fulfillment of the above conditions; And/or*

3. *Direct the respondent authorities that the assets and properties of such arrested persons and also other perpetrators which incited or abetted the violence and destruction, will remain under attachment for the loss quantified to have been caused until its realization in the interest of justice; And/or*

4. *Direct the concerned respondent authorities to file status report regarding the implementation of the actions taken by them with respect to guidelines formulated by the Hon’ble Apex Court in Destruction of Public and Private Properties, In re, particularly mentioned in paras 12 and 15 of the SCC Report of the said judgment, as well as the action so far taken in respect of the Raga Police Case No. 30/2020 registered against the private respondents and others;”*

Taking note of the prayers made in the writ petition, as noted-above; this Court, vide order, dated 21.11.2021; had appointed the Learned District Judge, Ziro, to act as “Claims Commissioner” and make an assessment of the damages caused to the properties belonging to the petitioners and submit a report to this Court, in a “sealed envelope”.

Insofar as the investigation of the connected case registered as Raga Police Station Case No. 30/2020 u/ss. 448/147/148/149/ 427 of the Indian Penal Code, is concerned; the Superintendent of Police, Kamle District, was directed to submit the updated status report in “sealed cover”, within a period of 60 days indicating the progress made in the investigation.

Counter affidavits by the respondents have been filed.

However, the learned counsels appearing for the parties have placed before this Court, a legislation enacted by the legislature of the State of Arunachal Pradesh, namely, the Arunachal Pradesh Property (Prevention of Damage and Loss) Act, 2020, as well as the Arunachal Pradesh Property (Prevention of Damage and Loss) Rules, 2020, made in exercise of powers conferred under Section 20 of the Arunachal Pradesh Property (Prevention of Damage and Loss) Act, 2020.

Under the aforesaid Arunachal Pradesh Property (Prevention of Damage and Loss) Act, 2020 and Arunachal Pradesh Property (Prevention of Damage and Loss) Rules, 2020; it has been pointed-out by the learned counsels for the parties, that the competent authority to make assessment of the damages caused to the properties belonging to the petitioners in a mob violence, is the Addl. Deputy Commissioner of the concerned District along with the Executive Engineer, Public Works Department, Government of Arunachal Pradesh, of the concerned PWD Division, and the Finance

& Accounts Officer of the Office of the concerned Deputy Commissioner.

Insofar as the investigation of the case is concerned; it has also been pointed-out by the learned counsels for the parties that the same has to be done in accordance with the provisions of the Code of Criminal Procedure, 1973.

Mr. Sonar, learned counsel for the petitioners, submits that when this writ petition was filed, the petitioners were unaware of the law enacted by the legislature of the State of Arunachal Pradesh and the Rules framed, thereunder, as indicated above, and it is for the reasons stated-above; that this writ petition was filed by the petitioners, seeking a direction as mentioned-above, which is contrary to the Arunachal Pradesh Property (Prevention of Damage and Loss) Act, 2020, as well as the Arunachal Pradesh Property (Prevention of Damage and Loss) Rules, 2020.

Accordingly, the assessment of the damages caused to the properties of the petitioners could not have been made by the District Judge, Ziro, as well as the investigation of the case, as prayed for by the petitioners, could also not have been made by the Superintendent of Police, Kamle District.

Mr. Sonar, learned counsel for the petitioners, also submits that the investigation of the Raga Police Station Case No. 30/2020, is yet to be completed.

Having considered the submissions as made-above by the learned counsels for the parties and also having taken note of the fact that this writ petition has been filed by the petitioners contrary to what have been provided in the Arunachal Pradesh Property (Prevention of Damage and Loss) Act, 2020, as well as the Arunachal Pradesh Property (Prevention of Damage and Loss) Rules, 2020, framed, thereunder;

this writ petition is disposed of with a direction to the Addl. Deputy Commissioner, Raga, along with the officials named in Chapter-II of the Arunachal Pradesh Property (Prevention of Damage and Loss) Rules, 2020, namely, Executive Engineer, Public Works Department, Government of Arunachal Pradesh, of the concerned PWD Division, and the Finance & Accounts Officer of the Office of the concerned Deputy Commissioner; to assess the damages caused to the properties belonging to the writ petitioners, in accordance with the Act and the Rules, referred to hereinabove.

Insofar as the investigation of Raga Police Station Case No. 30/2020 is concerned; it is hereby directed that the Officer-in-Charge of Raga Police Station and the I.O. entrusted to investigate the case, shall complete the investigation in accordance with law and also by taking into account, amongst others; the provisions of the Arunachal Pradesh Property (Prevention of Damage and Loss) Act, 2020, as well as the Arunachal Pradesh Property (Prevention of Damage and Loss) Rules, 2020, framed, thereunder.

Since Raga Police Station Case No. 30/2020 was registered in the year 2020 and the maximum period prescribed under the law for completion of the investigation is 90(ninety) days; I further deem it appropriate to direct the Officer-in-Charge of Raga Police Station and the I.O. entrusted to investigate the case, to complete the investigation of Raga Police Station Case No. 30/2020, as expeditiously as possible but in any case, not later than 2(two) months from today.

With the above directions, the writ petition stands disposed of.

JUDGE

Comparing Assistant