

GAHC040006602022



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

Case No. : CRP/32/2022

Iri Dini
S/o Late Dui Dini,
R/o Gogar Village,
PO/PS Likabali, District Lower Siang, Arunachal Pradesh.
M.No. 8837434121.

VERSUS

Domo Dini and Anr.
S/o Late Tado Dini,
R/o Gogar Village, PO/PS Likabali, District Lower Siang, Arunachal Pradesh.
2:Tomen Ngucho
Age: 0
Occupation

Advocate for the Petitioner : Lissing Perme

Advocate for the Respondent : Dicky Panging

BEFORE
HONBLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 25-07-2023

Heard Mr. L. Perme, the learned counsel for the petitioner and Mr. M. Doji, the learned counsel appearing on behalf for the respondent No.1.

2. From the office note, it is revealed that the services has also completed on respondent No.2, who is a proforma respondent but none appears on behalf of respondent No.2.

3. This is an application under Article 227 of the Constitution of India read with Section 115 of CPC for setting aside and quashing of the impugned judgment and order dated 12.04.2022 passed by the Circle Officer on behalf of the Deputy Commissioner, Likabali, Lower Siang District, Arunachal Pradesh in a land dispute case between Shri Domo Dini Vs. Iri Dini & Anr bearing Case No-LKBJK/46-09/2018 under Section 46 of AF (AJ) R, 1945.

4. It is submitted by the learned counsel for the petitioner that the order dated 12.04.2022 was passed by Circle Officer on behalf of the Deputy Commissioner, Likabali, Lower Siang District, Arunachal Pradesh without having any authority or judicial power to decide the matter when the appeal was filed by the respondent against the Kebang decision dated 27.05.2022 which was passed by customary court of Gogar village authority.

5. So only issue raised on this revision petition is that whether the Circle Officer can pass the judicial order or whether judicial power can be delegated or sub-delegated to the Circle Officer by the Deputy Commissioner who is authorised to deal with the appeal which is filed against the order of the Circle Officer. Accordingly, it is submitted by the learned counsel for the petitioner that order which has been passed by the Circle Officer dated 12.04.2022 is annexed as Annexure-1 of the petition. In this context, the learned counsel for the petitioner also relied on decision of Hon'ble Apex Court reported in AIR 2017 Supreme Court 1947 in case of *Black Pearl Hotels (Pvt) Ltd Vs. M/s Planet M. Retail Ltd.*

6. It is contended by the learned counsel, Mr. M. Doji appearing for the respondent No.1 also submitted that Circle Officer has no authority or judicial power to pass the order in an appeal which is filed against the Circle Officer's decision and hence, it is submitted that order which is passed by the Circle Officer is liable to be set aside and also agreed to the submission made by the learned counsel for the petitioner.

7. Section 46 (1) of the Assam Frontier (Administration of Justice) Regulation Act, 1945, read as under;

“46.(1). Appeals from village authorities: Any person aggrieved by a decision of a village authority may appeal to the Assistant Commissioner in suits not

exceeding Rs.500/- in value and to the Deputy Commissioner in suits exceeding that value.

(2) If such an appeal is filed, a record shall be made of the matter in dispute and of the decision of the village authority.

(3) The appellate court shall, if necessary, examine the parties, and, if the decision appears to be just, shall affirm and enforce the decision as its own. If the appellate court sees grounds to doubt the justice of the decision, it shall try the case de novo or refer to a panchayat; in any case so referred, the provisions of section 38 shall apply as if the parties had agreed to submit to arbitration."

8. From the Section 46(1) of the Assam Frontier (Administration of Justice) Regulation Act, 1945, it is seen that the appeal can be filed before the Assistant Commissioner in suits not exceeding Rs.500/- in value and it can be filed before the Deputy Commissioner if suits exceeds Rs.500/-. Thus, it is seen that there is no any provision of delegation and sub-delegation of judicial power or authority in deciding the appeal by the Circle Officer.

9. Considering the submissions made by the learned counsel for both sides and I am of the opinion that the order dated 12.04.2022 passed by the Circle Officer, Likabali Circle is illegal and arbitrating which has been passed without proper authority. Hence, I find that same order dated 12.04.2022 passed by the Circle Officer on behalf of the Deputy Commissioner, Likabali, Lower Siang District, Arunachal Pradesh is liable to be set aside. And accordingly, the

same is hereby quashed and set aside.

10. Both the parties are at the liberty to approach appropriate forum with proper application against the Kebang decision dated 27.05.2022.

11. With the above observation, the instant criminal revision petition stands disposed of.

JUDGE

Comparing Assistant