

GAHC040007632021



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

Case No. : WP(C) 262/2021

1:Techi Chada
son of Late Tech Nikam,
Resident of Palin Town, PO and PS Palin, District Kra Daadi Arunachal Pradesh,
Mobile No. 8258913773

VERSUS

1:The Deputy Commissioner and 4 Ors.
Kra Daadi District, Arunachal Pradesh

2:The District Land Revenue and Settlement Officer
Kra Daadi District

3:The EAC (Land)-cum-I/C DLRSO
Palin
Kra Daadi District
Arunachal Pradesh

4:Techi Azad
son of Shri Tech Nikam
New Palin
PO and PS Palin
Kra Daadi District
Arunachal Pradesh

5:Tassar Sagung
son of Tassar Powak
New Palin
PO and PS Palin
Kra Daadi District

Arunachal Pradesh

Advocate for the Petitioner : Chorpok Modi

Advocate for the Respondent : GA (AP)

**BEFORE
HONBLE MR. JUSTICE NANI TAGIA**

ORDER

Date : 01-03-2023

Heard Mr. M. Tunar, learned counsel for the petitioner and Mr. I. Riram, learned Addl. Senior Govt. Advocate for the State respondents.

Office Note dated 01.10.2021 shows that the respondent No.4 has been served.

In view of the Office Note dated 25.08.2021, indicating that the notice to the respondent No.5 was issued on 25.08.2021 by registered post with A/d, invoking the provision of Order 5 Rule 9 of the Code of Civil Procedure, 1908, notice upon respondent No.5 is deemed to be served.

The order put to challenge in this writ petition is dated 17.03.2021, passed by the EAC(Land), I/c DLR&SO, Palin, Dra Daadi District, Arunachal Pradesh(annexure-I to the writ petition), whereby an order has been passed that Shri Techhi Chada(petitioner), who has encroached the land of Smti Techhi Gogi(respondent No.4), wife of Shri Techhi Azad shall be settled within their families locally as per their customary law and Shri Tassar Sagung, son of late Tassar Powak(respondent No.5) shall allow Shri Techhi Chada(petitioner) to construct drainage through his land area and both the persons shall solve the matter amicably. Shri Techhi Chada shall withdraw the Title Suit filed before the Court of the learned Judicial Magistrate, 1st Class, Lower Subansiri, Ziro, within a week. 8

Sq.Mtr. land encroached from Shri Tassar Sagung(respondent No.5) and Smti Tech Gogi(respondent No.4) shall not be objected by both the parties. Status quo shall be maintained and standing structures shall not be disturbed and remain as is where is basis except the proposed drainage constructions.

Perusal of the order dated 17.03.2021, passed by the EAC(Land), I/c DLR&SO, Palin, Dra Daadi District, indicates that the EAC(Land), I/c DLR&SO had adjudicated the land dispute amongst the petitioner, respondent No.4 and respondent No.5 respectively.

By the impugned order, it has further directed the petitioner to withdraw the Title Suit filed before the Court of the learned Judicial Magistrate, 1st Class, Lower Subansiri, Ziro.

Though the counter-affidavit by the State respondents No.1, 2 & 3 have been filed, since it is a well settled position of law that the executive officers of the State cannot adjudicate the civil dispute, this writ petition is disposed of, by setting aside the impugned order dated 17.03.2021, passed by the EAC(Land), I/c DLR&SO, Palin, Dra Daadi District by leaving the parties at liberty to contest the Title Suit filed by the petitioner against the respondent No.4 before the Court of the learned Judicial Magistrate, 1st Class, Lower Subansiri, Ziro which should be the learned Civil Judge(Sr. Division), Kra-Dadi, stationed at Lower Subansiri District, Ziro.

The writ petition is disposed of, with the above direction.

JUDGE

Comparing Assistant