

GAHC040011782022



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

Case No. : WP(C)/346/2022

Bullo Habung
Son of Late Bullo Tanyo,
Village Hong, PO and PS Ziro, Lower Subansiri District, Arunachal Pradesh.
Ph. No 9863239281

VERSUS

THE STATE OF AP and 2 Ors.
to be represented by the Deputy Commissioner, Lower Subansiri District, Ziro,
Arunachal Pradesh.

2:Bullo Tani (HGB) Village Hong Lower Subansiri District, PO & PS Ziro, Arunachal Pradesh. Age: 0 Occupation :

3:Bullo Tajang Village Hong Lower Subansiri District, PO & PS Ziro, Arunachal Pradesh. Age: 0 Occupation

Advocate for the Petitioner : Khoda Tari
Tanyang Tado

Advocate for the Respondent : GA (AP)
Ajin Apang Sr Advt
Nani Anju
Komni Riba
B Taka

**BEFORE
HONBLE MR. JUSTICE NANI TAGIA**

ORDER

Date : 31.07.2023

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Heard Mr. Khoda Tari, learned counsel for the petitioner. Also heard Mr. Subu Tapin, learned Senior Government Advocate, appearing on behalf of Respondent No. 1; and Mr. Ajin Apang, learned senior counsel, appearing on behalf of Respondents No. 2 & 3.

This writ petition is directed against the order, dated 25.03.2022, passed by the Deputy Commissioner, Lower Subansiri District, Ziro, vide Memo. No. LMZ/COMPLAINT/BR-1/2014/117-20, whereby, the land "Tarikotari" was directed to be distributed among the clan members of Bullo Taling Uru(Respondents No. 2 & 3), equally, which order was passed in a Misc./Review Petition No. 15/2022 filed by the Respondents No. 2 & 3, seeking a review of the order, 03.03.2016, passed by the Deputy Commissioner, Lower Subansiri District, Ziro, to the extent it was observed in Clause 1 thereof, that "Tariko Tari" should be distributed among the clan members of Lora Uru equally.

Aggrieved by the aforesaid order, dated 03.03.2016, passed by the Deputy Commissioner, Lower Subansiri District, Ziro, to the extent it had recorded that "Tarikotari" should be distributed among the clan members of Bullo Taling Uru equally;

the Respondents No. 2 & 3, had filed a representation, dated 11.04.2016, before the Deputy Commissioner, Lower Subansiri District, Ziro, seeking modification/alteration of the order, dated 03.03.2016, passed by the Deputy Commissioner, Lower Subansiri District, Ziro, to the extent that it was recorded that Tarikotari should be distributed among the clan members of Bullo Taling Uru equally.

While the representation, dated 11.04.2016, was pending before the Deputy Commissioner, Lower Subansiri District, Ziro; the Respondents No. 2 & 3 had approached this Court by filing a writ petition being WP(c)451(AP)2016, which was disposed of by the Court, vide order, dated 24.08.2016, directing the Deputy Commissioner, Lower Subansiri District, Ziro, to consider and dispose of the petitioners' representation, dated 11.04.2016, within a week.

It appears that the impugned order, dated 25.03.2022, has been passed by the Deputy Commissioner, Lower Subansiri District, Ziro, in purported compliance of this Court's order, dated 24.08.2016, passed in WP(c)451(AP)2016.

In the impugned order, dated 25.03.2022, passed by the Deputy Commissioner, Lower Subansiri District, Ziro; the Deputy Commissioner, Lower Subansiri District, Ziro, *inter alia*, had observed that "Tarikotari" should be distributed among the clan members of Bullo Taling Uru equally, and, thereby, modified the earlier order of the Deputy Commissioner, Lower Subansiri District, Ziro, dated 03.03.2016.

Aggrieved by the aforesaid order, dated 25.03.2022, passed by the Deputy

Commissioner, Lower Subansiri District, Ziro; the petitioner, herein, has filed the instant writ petition, by challenging to the extent that "Tarikotari" should be distributed among the clan members of Bullo Taling Uru equally, contending that no opportunity of hearing was given to the petitioner before the order, dated 25.03.2022, was passed by the Deputy Commissioner, Lower Subansiri District, Ziro.

Upon hearing the learned counsels appearing for the parties, and on perusal of the materials placed on record; it is noticed that "Tarikotari" is a plot of land which has been observed by the Deputy Commissioner, Lower Subansiri District, Ziro, to be distributed among the clan members of Bullo Taling Uru equally.

Learned counsels appearing for the parties have also agreed that since "Tarikotari" is a plot of land, the Deputy Commissioner, Lower Subansiri District, Ziro, could not have made any observation insofar as the land called "Tarikotari" is concerned; as such an observation made by the Deputy Commissioner, Lower Subansiri District, Ziro, could amount for a decision by the Deputy Commissioner, on a civil right of the parties.

In view of the above, I find that the Deputy Commissioner, Lower Subansiri District, Ziro, vide the impugned order, dated 25.03.2022, could not have decided the rights of the parties vis-à-vis "Tarikotari" which is stated to be a plot of land as the Deputy Commissioner, Lower Subansiri District, Ziro, lacks competence and jurisdiction to decide the civil dispute between the parties.

In that view of the matter; this writ petition is hereby disposed of by setting aside the impugned order, dated 25.03.2022, passed by the Deputy Commissioner, Lower Subansiri District, Ziro, vide Memo. No. LMZ/COMPLAINT/BR-1/2014/117-20, passed by the Deputy Commissioner, Lower Subansiri District, Ziro, to the extent it is observed that "Tarikotari" should be distributed among the clan members of Bullo Taling Uru equally.

Since the impugned order, dated 25.03.2022, passed by the Deputy Commissioner, Lower Subansiri District, Ziro, referred to above; has been set aside by the Court, insofar as the observation made by the Deputy Commissioner, Lower Subansiri District, Ziro, on the land called "Tarikotari" by holding it to be passed by the Deputy Commissioner, Lower Subansiri District, Ziro, without jurisdiction; Mr. Apang, learned senior counsel appearing for Respondents No. 2 & 3, submits that similar observation made by the Deputy Commissioner, Lower Subansiri District, Ziro, in the order, dated 03.03.2016, insofar as the land called "Tarikotari" is concerned; should also be set aside for want of jurisdiction by the Deputy Commissioner, Lower Subansiri District, Ziro, for making such an observation.

Though the contention made by Mr. Apang, learned senior counsel for Respondents No. 2 & 3, appears to be correct insofar as the jurisdiction of the Deputy Commissioner, Lower Subansiri District, Ziro, is concerned insofar as the observation made in the order, with regard to the plot of land called "Tarikotari"; I find that this is a writ petition filed, challenging the order, dated 25.03.2022, passed by the Deputy Commissioner, Lower Subansiri District, Ziro, only.

In a writ petition filed, challenging only the order, dated 25.03.2022, passed by the Deputy Commissioner, Lower Subansiri District, Ziro; it may not be appropriate for the Court to also set aside the order, dated 03.03.2016, passed by the Deputy Commissioner, Lower Subansiri District, Ziro, insofar as the observation made by the Deputy Commissioner, Lower Subansiri District, Ziro, with regard to the plot of land called "Tarikotari" for want of jurisdiction for making such an observation by the Deputy Commissioner, Lower Subansiri District, Ziro.

However, since the observation made by the Deputy Commissioner, Lower Subansiri District, Ziro, with regard to the plot of land called "Tarikotari" in the order, dated 03.03.2016, is also found to be without jurisdiction; a liberty is granted to the Respondents No. 2 & 3 to challenge the order, dated 03.03.2016, passed by the Deputy Commissioner, Lower Subansiri District, Ziro, if so advised.

The writ petition stands disposed of in terms above.

JUDGE

Comparing Assistant