

GAHC010243592023



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

Case No. : WA/404/2023

1. BITOM JONGKEY AND 10 ORS
S/O SHRI OTENGJONGKEY
RESIDENT OF VILLAGE KARKO, PO YINGKIONG, PS JENGGING, DIST
UPPER SIANG, ARUNACHAL PRADESH, 791002

2: SHRI DIKO APANG
S/O SHRI DUNGGU APANG
RESIDENT OF VILLAGE KARKO
PO YINGKIONG, PS JENGGING
DIST UPPER SIANG, ARUNACHAL PRADESH
791002

3: SHRI TUKI JONGKEY
S/O SHRI ANONGJONGKEY
RESIDENT OF VILLAGE KARKO
PO YINGKIONG, PS JENGGING
DIST UPPER SIANG, ARUNACHAL PRADESH
791002

4: SHRI AMIN JONGKEY
S/O SHRI ANONGJONGKEY
RESIDENT OF VILLAGE KARKO
PO YINGKIONG, PS JENGGING
DIST UPPER SIANG, ARUNACHAL PRADESH
791002

5: SHRI OKUP JONGKEY
S/O LATE DUNO JONGKEY
RESIDENT OF VILLAGE KARKO
PO YINGKIONG, PS JENGGING
DIST UPPER SIANG, ARUNACHAL PRADESH
791002

6: SRI ODA PANGKAM
S/O LATE BOLOK PANGKAM
RESIDENT OF VILLAGE KARKO
PO YINGKIONG, PS JENGGING
DIST UPPER SIANG, ARUNACHAL PRADESH
791002

7: SHRI GONI NOBENG
S/O SRI ONYOK NOBENG
RESIDENT OF VILLAGE KARKO
PO YINGKIONG, PS JENGGING
DIST UPPER SIANG, ARUNACHAL PRADESH
791002

8: SHRI KANGGU JONGKEY
S/O SHRI KABIT JONGKEY
RESIDENT OF VILLAGE KARKO
PO YINGKIONG, PS JENGGING
DIST UPPER SIANG, ARUNACHAL PRADESH
791002

9: SHRI JOMLONG PANGKAM
S/O LATE LASIK PANGKAM
RESIDENT OF VILLAGE KARKO
PO YINGKIONG, PS JENGGING
DIST UPPER SIANG, ARUNACHAL PRADESH
791002

10: SMTI BINI PANGKAM
S/O SHRI JOMLONG PANGKAM
RESIDENT OF VILLAGE KARKO
PO YINGKIONG, PS JENGGING
DIST UPPER SIANG, ARUNACHAL PRADESH
791002

11: SHRI OLIK APANG
S/O ATUK APANG
RESIDENT OF VILLAGE KARKO
PO YINGKIONG, PS JENGGING
DIST UPPER SIANG, ARUNACHAL PRADESH
79100

VERSUS

1. THE STATE OF ARUNACHAL PRADESH AND 4 ORS.
REPRESENTED BY ITS CHIEF SECRETARY, ITANAGAR, ARUNACHAL
PRADESH

2:THE DEPUTY COMMISSIONER CUM DISTRICT MAGISTRATE
YINGKKIONG, UPPER SIANG DISTRICT ARUNACHAL PRADESH

3:THE OFFICER IN CHARGE
105 RCC (GREF) MOYING
C.O 99 APO
930105
GOVT. OF ARUNACHAL PRADESH

4:THE DISTRICT LAND REVENUE AND SETTLEMENT OFFICER
LAND MANAGEMENT DEPARTMENT
UPPER SIANG DISTRICT YINGKIONG
ARUNACHAL PRADESH 791002

5:THE EXECUTIVE ENGINEER (CIV.)
OFFICER COMMANDING
105 ROAD CONST. COY (GREF) 930105
C/O 99 AP

For the Appellant(s) : Mr. D. Mozumder, Senior Advocate assisted by
Mr. P. Borah and Mr. G.R. Dutta, Advocate.

For the Respondent(s) : Mr. N.N.B. Choudhury, Additional Advocate General,
Arunachal Pradesh.

BEFORE
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE KARDAK ETE

19.10.2023

The instant intra-Court writ appeal has been preferred by the appellants/writ petitioners against the *interim* order dated 11.10.2023 passed by the learned Single Bench (Itanagar Bench) in WP(C) No.499/2023, whereby a direction was issued to maintain *status quo* as on that day (11.10.2023) by the parties in respect of Right of Way (ROW) and the appellants/writ petitioners' right of use of their private lands.

The appellants/writ petitioners preferred writ petition, being WP(C) No.499/2023 challenging the order dated 12.09.2023 issued by the Executive Magistrate, Yingkiong, Upper Siang District, Arunachal Pradesh, wherein following directions have been given:

“WHEREAS, it has been observed that construction activities such as construction of concrete boundary walls, shelters, plantation/cultivation etc are being carried out at various locations by the public on the Right of Way (ROW) with an intention to claim compensation at the time of Land Acquisition.

AND WHEREAS, land acquisition on the existing Ditte Dimme-Migging road from 53.00 km (Sirnyuk Nallah) to 92.25 km (Moying) is under process to develop the road to National Highway Double Lane (NHDL) specification.

AND WHEREAS, such construction are causing significant damage to road surface, drainage and causing instability to the existing road formation.

AND WHEREAS, the existing road is the only primary means of transport in the region. Hence it is felt that it is expedient to safeguard the existing road from further damage.

AND NOW, THEREFORE, I, Shri Hage Lailang, Deputy Commissioner-cum-District Magistrate, under the provision of Section 133 CrPC, do hereby prohibit all kinds of unauthorized constructions and plantation/ cultivation on the Right of WAY (ROW) of the existing Ditte Dimme-Migging road from 53.00 km (Sirnyuk Nallah) to 92.25 (Moying).

Further, henceforth any unauthorized constructions, plantation or cultivation on the aforesaid ROW shall be viewed seriously and shall not be accounted in the survey for compensation.”

Mr. D. Mozumder, learned senior counsel representing the appellants/writ petitioners submits that under the garb of the aforesaid order dated 12.09.2023, the police authorities are obstructing the appellants/writ petitioners from accessing the public Right of Way (ROW) so as to approach their own private lands for cultivation.

He thus submits that the appellants/petitioners may be permitted to

approach the Deputy Commissioner-cum District Magistrate, Yingkiong, Upper Siang District, Arunachal Pradesh for seeking clarification of the order dated 12.09.2023 so that the appellants/writ petitioners can approach their own private fields freely.

Mr. N.N.B. Choudhury, learned Additional Advocate General, Arunachal Pradesh does not object to the aforesaid prayer.

In view of the above, leaving the appellants/writ petitioners at liberty to approach the Deputy Commissioner-cum-District Magistrate, Yingkiong, Upper Siang District, Arunachal Pradesh with a suitable prayer for being allowed to have free access to the Right of Way, the proceedings of the instant writ appeal as well as of the writ petition, WP(C) No.499/2023 are closed.

In case the appellants/writ petitioners' grievances still subsist, they shall be at liberty to take recourse of suitable remedy before appropriate forum.

JUDGE

CHIEF JUSTICE

Comparing Assistant