

GAHC020002132021



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

Case No. : C. REVN/4/2021

SHRI. KATEMINBA
SANGTEMLA WARD H/NO.115, BLOCK - 4, MOKOKCHUNG - 79817

VERSUS

SHRI. T. BENDANGWATI PONGENER
MOKOKCHUNG VILLAGE, LENDEN MEPU, MOKOKCHUNG - 798617

Advocate for the Petitioner : C. T. JAMIR, SR. ADV

Advocate for the Respondent : IMTI LONGJEM

**BEFORE
HONBLE MR JUSTICE KARDAK ETE**

ORDER

Date : 24-04-2023

Heard Mr. C. T. Jamir, learned Senior Counsel for the petitioner assisted by Mr. I. Imchen, learned counsel and also heard Mr. Imti Longjem, learned counsel for the sole respondent.

This Civil revision has been filed by the petitioner challenging the impugned judgment dated 20.04.2021 passed by the DB's Court, Mokokchung, Nagaland in No. DB-2/2020-21/Case No. 230/1808 on the ground that the SDO(Civil), Mokokchung, has no authority and

jurisdiction to endorse the matter to the DB's Court as SDO (Civil), Mokokchung has not been appointed as assistant to Deputy Commissioner as per the law.

The case of the petitioner is that he purchased a plot of land belonging jointly to Longkumer, Angur and Kichu clan of Mokokchung Village. While the petitioner was in possession of the said land, one late Mayangtemba occupied the land for constructing fences by claiming that he has purchased the land from Mr.Jongpongtemsü. However, the matter was resolved. Around 25.01.2021, the petitioner came to know that his fencing was destroyed and there were some developmental activities going on, and on enquiry found that the respondent was the one who was carrying out the developmental activities by destroying the petitioner's fencing on the ground that the respondent has purchased the said plot.

The petitioner approached the District Customary Court, Nagaland for resolving the issue amicably but the SDO (Civil), Mokokchung has endorsed the case to be adjudicated by the DB's Court vide letter dated 17.02.2021. On such endorsement, the DB's Court has passed the impugned judgment dated 20.04.2021 and held that the land belongs to the respondent.

The learned Senior counsel for the petitioner submits that the SDO (Civil), Mokokchung has not been appointed as Assistant to Deputy Commissioner, Mokokchung, under the Rules for the Administration of Justice and Police in Nagaland, 1973. The learned Senior counsel submits that the impugned judgment dated

20.04.2021 passed by the DB's Court on the endorsement of the SDO (Civil) dated 17.02.2021 is without jurisdiction. The learned Senior counsel relied on order passed by this Court in the case of Sri. Tsukti Longkumer vs. Mrs. Imlipokla Longsa in C.REVN./3/2021.

The learned counsel for the respondent, Mr. Imti Longjem submits that it is the petitioner who approached the District Customary Court, Nagaland on 17.02.2021 for adjudication of the matter, therefore he cannot challenge the impugned judgment just because the same is not in his favour. Having submitted as above, however, he fairly submits that there could not be estoppel against the statute in as much as rules provides that it is the DC, ADC and Assistant to DC, who may refer the dispute to the DB's Court. It is an admitted position that the SDO (Civil) not being appointed as Assistant to DC, Mokokchung, has no authority and jurisdiction to endorse the dispute in question.

I have considered the submissions of the learned counsel for the parties.

Rule 23 A of Rules for the Administration of Justice and Police in Nagaland, 1973 stipulates that the Dobashis hence forth shall try and decide such civil cases only as may be referred to them by the Deputy Commissioner or Additional Deputy Commissioner or Assistant to the Deputy Commissioner as the case may be.

Rule 1(c) defines the Assistant to the Deputy Commissioner as under: "Assistant to the Deputy Commissioner" in these rules shall mean and include officers appointed as such to exercise powers

assigned under these Rules and shall also include officers designated as Assistant to the Deputy Commissioner (Judicial) as and when appointed, to administer Criminal and Civil Justice under these Rules.

On conjoint reading of Rule 23A and 1C, it is the DC, ADC or assistant to Deputy Commissioner who can endorse/refer for adjudication of the dispute to the DB's Court. In the case at hand SDO (Civil), Mokokchung, not being appointed as Assistant to DC, has no authority to refer the matter to DB's Court.

In view of the above, the endorsement made by the SDO (Civil), Mokokchung to the DB's Court is without any authority under the law. Consequently the impugned order dated 20.04.2021 is also without jurisdiction. Resultantly, the endorsement dated 17.02.2021 and the impugned judgment dated 20.04.2021 is hereby set aside and quashed. However, the parties are at liberty to file application afresh before the appropriate forum, if so advised.

C.REVN/4/2021 is accordingly disposed of.

Sd/-
JUDGE

Comparing Assistant