



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

Case No. : C. REVN/8/2021

SMTI NEIKHRIETUONUO KEPFU
MERIEMA VILLAGE, KOHIMA NAGALAND

VERSUS

THE STATE OF NAGALAND AND
4 ORS THROUGH THE COMMISSIONER, NAGALAND, KOHIMA

2:THE DEPUTY COMMISSIONER
KOHIMA NAGALAND

3:THE HEAD DOBASHI COURT
KOHIMA-NAGALAND

4:SMTI KEDUKEI CHIELIE
R/O MERIEMA KOHIMA- NAGALAND

5:SHRI NEIHELHOULIE
R/O MERIEMA
VILLAGE KOHIMA- NAGALAND

Advocate for the Petitioner : I. APOK PONGENER

Advocate for the Respondent : GOVT ADV NL

Linked Case : C. REVN/5/2021

SMTI NEIKHRIETUONUO
MERIEMA VILLAGE
KOHIMA
NAGALAND

VERSUS

THE STATE OF NAGALAND AND 3 ORS
THROUGH THE COMMISSIONER
NAGALAND
KOHIMA

2:THE DEPUTY COMMISSIONER
KOHIMA
NAGALAND

3:THE HEAD DOBASHI
DOBASHIS COURT
KOHIMA
NAGALAND

4:SMTI KEDUOKIE-U CHIELIE
R/O MERIEMA VILLAGE
KOHIMA
NAGALAND

Advocate for : I. APOK PONGENER
Advocate for : GOVT ADV NL appearing for
THE STATE OF NAGALAND
AND 3 ORS

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

21.11.2023

Heard Mr. I.A. Pongener, learned counsel for the petitioner; Ms. Livika, learned Government Advocate for the State respondent Nos. 1, 2 & 3; and N. Longkumer, learned counsel for the respondent Nos. 4 and 5.

2. In these two Civil Revision Petition Nos. 5/2021 and

8/2021, filed, under Article 227 of the Constitution of India read with Section 115 of the Cr.P.C., the petitioner has put to challenge the correctness or otherwise of the impugned communication/letter dated 15.04.2021, passed by the Head DB District Customary Court, Kohima. As the issues raised in both the petitions are identical, it is proposed to dispose of the same by a common order.

3. Mr. Pongener, learned counsel for the petitioner submits that the petitioner is the owner of a plot of land gifted by her grandfather and as such, she was enjoying the said plot of land and thereafter, a dispute arose between her and the respondent Nos. 4 and 5, namely, Kedukey Chielie and Neihelhoulie, respectively and then she has reported the matter to Village Council and thereafter, the Village Council has decided the issue in favour of the petitioner and thereafter, the respondents have preferred an appeal before the Dobashi Court, Kohima. Mr. Pongener further submits that after preferred the appeal, the Dobashi Court has reversed the judgment of the Village Council and decreed the land in favour of a stranger, who was not a party to the said proceeding. Referring to a decision of a Division Bench of this Court, in the Writ Petition No. 164/2017, dated 04.12.2022, Mr. Pongener submits that while answering the issue as to "[i] whether any decisions passed by the Village Council can be heard an appeal by the Dobashi Court?" referred to it, has held that "thus a plain reading of the provisions of Rule 31, does, in anyway give authority to the DC or his Assistants to forward cases of appeal to any other court but to the Panchayat. Therefore, an appeal forwarded to the court of Dobashis from the decisions of the Village Council is de hors the provision of the Appeal Rule 1937 Act" and in view of the ratio laid down in the aforesaid case, the Dobashi

Court cannot hear an appeal against a decision passed by the Village Council. Mr. Pongener also submits in view of the settled position of law, the impugned communication/letter dated 15.04.2021, issued by the Head DB District Customary Court, Kohima is not maintainable and therefore, it is contended to set aside the same and allow this petition.

4. Mr. Longkumer, learned counsel for the respondent Nos. 4 and 5 submits that in view of the settled proposition of law set by a Division Bench of this Court, in the Writ Petition No. 164/2017, dated 04.12.2022, he has no objection, if the impugned communication/letter dated 15.04.2021, issued by the Head DB District Customary Court, Kohima is set aside. However, Mr. Longkumer submits that liberty may be granted to him to approach appropriate forum, by filing appropriate petition.

5. Ms. Livika, learned Government Advocate for the State respondent Nos. 1, 2 & 3 submits that the State is not a necessary party herein this case and as such, she has not point to argue before this Court.

6. Having heard the submissions of learned counsel for both the parties, I have carefully gone through the petition as well as the documents placed on record and also perused the judgment of a Division Bench of this Court in the Writ Petition No. 164/2017, dated 04.12.2022.

7. It appears from the decision dated 04.12.2022, in Writ Petition No. 164/2017, that Dobashi Court cannot hear an appeal from a decision of the Village Council and it further appears from the Rule 31 of the Appeal Rules of 1937 that it does not provide for the same.

8. In view of above and also in view of the submissions of learned counsel for both the parties, this Court is inclined to allow this petition by setting aside the impugned communication/letter dated 15.04.2021, issued by the Head DB District Customary Court, Kohima. However, liberty will remain with the respondents to seek appropriate remedy before appropriate forum, by filing appropriate petition.

9. In terms of above, both these Civil Revision Petitions stand disposed of.

Sd/-

JUDGE

Comparing Assistant