



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

Case No. : WP(C)/5/2023

Debia Sita
W/o Shri Neelam Teji,
Village Popu II, PO/PS Naharlagun, District Papum Pare, Arunachal Pradesh.
Mobile No. 943290234

VERSUS

THE STATE OF AP and 2 Ors.
Represented by the Secretary (General Administration), Govt. of Arunachal Pradesh,
Itanagar. 2:The Additional Deputy Commissioner
Age: 0
Occupation :

3:Neelam Teji
Age: 0
Occupation

BEFORE
HON'BLE MR. JUSTICE KALYAN RAI SURANA

Advocates for the Petitioner	: Mr. G. Bam, Advocate
Advocate for the Respondents	: Ms. P. Sangita, Govt. Adv.
Date of hearing	: 30.05.2014.
Date of judgment and order	: 31.05.2024.

JUDGMENT & ORDER (CAV)

(K.R. Surana, J.)

Heard G. Bam, learned counsel for the petitioner and Ms. P. Sangita, learned Govt. advocate appearing for respondent nos. 1 and 2. None appears on call for respondent no.3.

2) By filing this writ petition under article 226 of the Constitution of India, the petitioner has assailed the order dated 22.12.2022 passed by the Addl. Deputy Commissioner, Yachuli, Lower Subansiri District, thereby directing the petitioner and the respondent no.3 along with their respective two Head Gaonburah each to be present in the Neelam Village General Ground on 19.01.2023 at 9.00 hours for amicable settlement of the marital dispute between the petitioner and the respondent no.3. The Head Gaonburah of Yachuli and the Gaonburah of Dee Village were directed to oversee and supervise "Mel" proceedings and to submit the settlement report after completion of "Mel" proceedings.

3) The learned counsel for the petitioner has submitted that such a decision is contrary to the law laid down by this Court in the case of *Registrar General, Gauhati High Court Vs. Union of India & Ors., 2013 (4) GLT 1109*, which was passed by the Division Bench of this Court and it which was further followed by the Coordinate Bench of this Court in the case of *Abu Maj Family Vs. The Addl. Deputy Commissioner, Nyapil & Anr.*, which was decided by order dated 13.02.2018, passed in WP(C) 181(AP)/2017.

4) It is submitted that on facts, the case of *Abu Maj Family (supra)*, is similar to the present case in hand. For the sake of convenience, the said order is quoted below:

1. *These 2(two) writ petitions under Article 226 of the Constitution of India,*

have been preferred by the petitioners, praying for issuance of an appropriate writ and/or order and/or direction, for quashing the impugned orders dated 24.01.2017, 28.02.2017 and 23.03.2017 passed by the Respondent No. 1 viz. Addl. Deputy Commissioner, Nyapin, wherein and whereby the said Addl. Deputy Commissioner had directed the petitioners in these writ petitions and the private respondents to appear before a Kebang/Mel constituted to preside over the land dispute between the parties on 30.01.2017, 15.03.2017, and 13.04.2017, respectively, at the Me/Hall of the Addl. Deputy Commissioner, Nyapin.

2. *Heard Mr. Tadup Tana Tara, learned counsel appearing on behalf of the petitioner in WP(c)181(AP)2017, and Mr. Tai Shiva, learned counsel, appearing on behalf of the petitioner in WP(c)193(AP)2017.*

Also heard Ms. Goter Ete, learned Addl. Senior Government Advocate, appearing on behalf of State Respondent No. 1 and Mr. Khoda Tama, learned counsel, appearing on behalf of private Respondent No. 2 in the 2(two) writ petitions.

3. *It is submitted by both the learned counsels appearing for the petitioners and the private Respondent No. 2 that in view of the Judgment passed by this Court in the case of Registrar General, Gauhati High Court v. Union of India & ors., reported in 2013(4)GLT 1109, wherein it has been held that the Deputy Commissioner and his sub-ordinates no longer have the power to take-up disputes relating to civil matters, the impugned orders dated 24.01.2017, 28.02.2017 and 23.03.2017 passed by the Respondent No. 1 viz. Addl. Deputy Commissioner, Nyapin, may be quashed and set aside so that the parties may approach the appropriate forum for resolving their disputes.*

Paragraphs No. 13, 14 and 15 of the Judgment, referred to above, reads, as follows:

"13. We now take up the issue in relation to the State of Arunachal Pradesh.

The Arunachal Pradesh Judicial Service Rules, 2006 have been promulgated by the State of the Arunachal Pradesh constituting judicial service. Selection, appointment and posting of officers have taken place against almost all the sanctioned posts. Courts have been duly constituted and are functioning. Vide Central Laws (Extension to Arunachal Pradesh) Act, 2007, CPC has been made applicable to the State of Arunachal Pradesh. Vide notification dated 24.10.2011, CrPC has been made applicable to the state The Arunachal Pradesh.

14. *Question for consideration is whether Civil Courts Act or the North East Frontier (Administration and Justice) Regulations, 1945(the Regulations) would apply in relation to matters dealt with by the regular Courts manned by the members of Arunachal Pradesh Judicial Service or*

such courts have to be taken to have been constituted under the Civil Courts Act.

Admittedly, the State of Arunachal Pradesh is in no manner different from the districts of Dima Hasao and Karbi Anglong in the State of Assam except that Administration of Justice Act on the pattern of 2009 Acts mentioned in Para 3 above have not been enacted. Nonetheless, after setting up of courts, it is not possible to hold that the Regulations still hold the field even to the extent of conferment of jurisdiction on courts merely because the Regulations to that extent have not been expressly repealed. Once Civil Courts Act is held applicable, as we have held in respect of tribal districts of Assam, the Regulations will cease to operate to that extent.

15. Thus, administration of justice by regularly constituted Courts manned by judicial officers of the cadre will function as per the Civil Courts Act and to that extent the North East Frontier (Administration and Justice) Regulations, 1945, conferring judicial powers on the executive will cease to operate. The doctrine of implied repeal will apply."

4. On perusal of the Judgment referred to by the learned counsels, it is clear that neither the Deputy Commissioner nor his sub-ordinates enjoy the power to take-up disputes of civil nature any longer. Therefore, the impugned orders dated 24.01.2017, 28.02.2017 and 23.03.2017 passed by the Respondent No. 1 viz. Addl. Deputy Commissioner, Nyapin, are hereby quashed and set aside. The parties to this case are at liberty to approach the appropriate forum for resolving their disputes, if so advised.

5. With the above direction and observation, the writ petitions stands disposed of."

5) The learned Govt. advocate has advanced her submission in support of the order impugned in this writ petition and it was submitted that subsequent to the judgment passed by this Court in the case of *Abu Maj Family (supra)*, the Arunachal Pradesh Civil Courts Act, 2021 has been enacted and amended, for which it cannot be said that the impugned order was without jurisdiction.

6) We have considered the submissions and also considered the two cases cited at the bar and considered the provisions of the Arunachal Pradesh Civil Courts Act, 2021, as amended.

7) The amended provision of Section 15 of the said Act, as amended vide The Arunachal Pradesh Civil Courts (Amendment) Act, 2022 and the Assam Frontier (Administration of Justice) Regulation (Amendment) Act, 2023, in consolidated form is quoted below:

“15. Appeal etc.

(1) Appeals from the decree passed by a Court of District Judge and Courts of an Additional District Judge in original suits and proceedings of civil nature shall, when such appeals are allowed by law, lie to the High Court.

(2) Appeals from the decrees and orders passed by a Court of Civil Judge (Senior Division) in original suits and proceedings of civil nature, shall when such appeals are allowed by law, lie to the Court of the District Judge of that district or in the Court of Addl. District Judge where such Court exists or the High Court as the case may be.

(3) Appeals from the decree or order passed by a Court of Civil Judge (Junior Division) in original suits or proceedings of a civil nature, shall when such appeals are allowed by law, lie to the Court of Civil Judge (Senior Division) of the district and in case the Court of Civil Judge (Senior Division) has not been established in the district, to the Court of Additional District Judge or the District Judge, as the case may be.

Provided that, any appeal on civil suits pending in the Court of Deputy Commissioner shall be disposed of by the concerned Deputy Commissioner(s) under the provisions of the Assam Frontier (Administration of Justice) Regulation, 1945 as expeditiously as possible but not later than one year from the date of coming into force of this Act.

Provided further that, in case the Deputy Commissioners could not dispose of the pending appeals in their Court(s) within one year from the date of commencement of the Arunachal Pradesh Civil Courts Act, 2021 (Act No.4 of 2021), they shall transfer such pending appeal cases to the Courts of Civil Judge Junior Division, the courts of Civil Judge Senior Division, the Courts of Additional District Judge or the Courts of District Judge, as the case may be, as per their territorial and pecuniary jurisdiction.

Provided also that, in case an appeal is transferred by the Deputy Commissioners or preferred against the judgment of the Customary Court(s) in the Courts of Civil Judge, Junior Division, the courts of Civil Judge, Senior Division, the Court of Additional District Judge or the Courts of District Judge, as the case may be, such appeal shall not be set aside merely on technical ground or procedural lapses but in the interest of justice, shall be disposed of as may be deemed appropriate or proceed with the case de novo.

Provided further also that, where the Deputy Commissioners has already transferring pending appeals of pending civil suits to the Court of Additional District Judge or the Courts of District Judge in terms of the second proviso of such-section (3) of Section 15 of the Arunachal Pradesh Civil Courts Act, 2021 (Act no. 4 of 2021), the Courts of Additional District Judge or the Courts of District Judge, as the case may be, may further transfer the appeal t the Courts of Civil Judge Junior Division, the courts of Civil Judge Senior Division as per their territorial and pecuniary jurisdiction for their disposal.

(4) An appeal from the village authority, if agreed to by the partis or if the aggrieved party desires to appeal, as the case may be, shall lie before the inter-village territorial Customary Court or Apex Customary Court, by whatever name called, which shall settle the case as per the local traditional customary laws under the provisions of section 40 of the Assam Frontier (Administration of Justice) Regulation, 1945.

Provided that, an appeal against the order of the inter-village territorial court of Apex Customary Court shall lie before the Courts of Civil Judge Division, the Courts of Civil Judge Senior Division, the Court of Additional District Judge or the Court of District Judge, as the case may be, as per their territorial and pecuniary jurisdiction.

Provided further that, the courts of Civil Judge Junior Division, the Courts of Civil Judge Senior Division, the Courts of Additional District Judge of the Courts of District Judge, as the case may be, shall not set aside an appeal so filed merely on technical ground or procedural lapses but in the interest of justice shall dispose of the same as may be deemed appropriate or proceed with the case de novo."

8) From the above, we find that the District Administration includes the Deputy Commissioner, is duly empowered to refer a matter for decision by a Village Authority by whatever named called.

9) Therefore, the two decisions cited at the Bar by the learned counsel for the petitioner has no application under the provisions of the Arunachal Pradesh Civil Courts Act, 2021 (as amended).

10) Accordingly, we do not find that the order No. LS/YCL/JUD-01/2022 dated 22.12.2022, passed by the Addl. Deputy Commissioner, Yachuli, impugned in this writ petition suffers from any infirmity and/or jurisdictional error warranting interference of this Court. Resultantly, this writ petition stands dismissed.

11) The learned Govt. advocate shall transmit a downloaded copy of this order to the Addl. Deputy Commissioner, Yachuli so that further appropriate order can be passed in continuation to the order no. LS/YCL/JUD-01/2022/5228-35 dated 18.01.2023.

JUDGE

Comparing Assistant