

GAHC040002232023



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

Case No. : Review Pet./1/2023

Karnya Doji
S/o Late Binkar Doji,
Resident of Doji Jeko Village,
PO Bagra and PS Aalo, West Siang District, Arunachal Pradesh.
PIN 791001

VERSUS

Marjum Doji
S/o Late Limar Doji,
Resident of Doji Jeko Village, PO Bagra and PS Aalo, West Siang District, Arunachal Pradesh.
PIN 791001

Advocate for the Petitioner : Ninnong Ratan

Advocate for the Respondent :

BEFORE
HON'BLE MRS. JUSTICE MALASRI NANDI
ORDER

07.02.2024

Heard Mr. N. Ratan, learned counsel for the review petitioner and Mr. G. Kato, learned counsel for the respondent.

2. This is an application under Section 114 and order XLVII, Rule 1 and

Section 151 of the Code of Civil Procedure, praying for review of the judgment and order, dated 21.11.2022, passed in Civil Revision Petition No. 03(AP)/2020.

3. It is submitted by the learned counsel for the review petitioner, Mr. Ratan that the order passed by the Deputy Commissioner, Aalo vide order, dated 23.12.2019, was set aside by this Court with a direction to remand back the matter to the Deputy Commissioner, Aalo to adjudicate the matter afresh and after hearing both the parties, dispose of the matter accordingly.

4. It is contended by the learned counsel for the review petitioner that as per the Arunachal Pradesh Civil Courts Act, 2021, the Deputy Commissioner has no authority to pass any order in the matter and prays that a direction may be given to the Deputy Commissioner, Aalo to transmit the Case Records to the Court of Civil Judge Senior Division, Aalo to adjudicate the matter afresh.

5. The learned counsel for the respondent, Mr. G. Kato has no objection on the prayer made by the learned counsel for the review petitioner.

6. I have perused the notification vide No. Law/Legn-20/2022 dated 03.08.2022 which reads as follows:

NOTIFICATION

“ WHEREAS, the Arunachal Pradesh Civil Courts Act, 2021 (Act No. 4 of 2021) was enacted by the Arunachal Pradesh Lagislative Assembly in the Sixth Session of the Seventh Lagislative Assembly, with a view to consolidate the laws relating to Civil Courts and for establishment of various Civil Courts for speedy disposal of Civil case in the State of Arunachal Pradesh and matters connected therewith and incidental thereto;

AND WHEREAS, the Governor of Arunachal Pradesh has assented to the Act, on 5th April, 2021 and it was published in the Arunachal Pradesh Extraordinary Gazette No. 108 Vol.XXVIII dated 12th April'2021.

AND WHEREAS, sub-section (3) of Section 1 of the Act provides that the Act shall come into force on the date of its publication in the Official Gazette.

AND WHEREAS, the first proviso to sub-section (3) of Section 15 of the Act, provides for disposal of any pending appeal civil suits by the 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 the Act.

AND WHEREAS, the period of 1(one) year provided to the Deputy Commissioner(s) to dispose of any pending appeal under the provisions of the Assam Frontier (Administration of Justice) Regulation, 1945 has expired on 12.04.2022.

AND WHEREAS, the second proviso to sub-section (3) of Section 15 of the Act, provides that, from the commencement of the Act, in case an appeal is preferred against the judgment of Customary Court before the Court of District Judge or Court of Additional District Judge as the case may be, the Court of District Judge or the Court of Additional District Judge, may dispose of the same or proceed with its case de novo.

NOW, THEREFORE, since the period of 1(one) year provided to the Deputy Commissioner(s) to dispose of any pending appeal case has expired on 12th April'2022, all the Deputy Commissioner(s) are directed to transfer all pending appeal civil suits/cases to the respective Courts of District Judge and the Courts of Additional Judge with immediate effect.

It is further apprised that the Courts of District Judge and the Courts of Additional Judge, may re-transfer the pending appeal civil suits/cases so received from the Deputy Commissioner(s) to the Court of Civil Judge Junior Division or Court of Civil Judge Senior Division as the case may be, as per their territorial and pecuniary jurisdiction."

7. After going through the notification dated 03.08.2022, it reveals that the

Arunachal Pradesh Civil Courts Act, 2021 came into force on 12th April'2021. The period of one year was so provided to the Deputy Commissioner to dispose of any pending appeal under the provisions of the Assam Frontier (Administration of Justice) Regulation, 1945 which had expired on 12.04.2022. Thereafter, all the Deputy Commissioner(s) are directed to transfer all pending appeal, civil suits/cases to the respective Courts of District Judge or the Courts of Additional District Judge with immediate effect.

8. In the case in hand, it appears that the order was passed by this Court on 21.11.2022 and after that one year has been elapsed.

9. In view of the aforesaid notification as well as on introduction of the Arunachal Pradesh Civil Courts Act, 2021, the prayer of the petitioner is allowed.

10. Accordingly, if the case record pertaining to Marjum Doji Vs. Karnya Doji is still in the custody of the Deputy Commissioner, Aalo, the same shall be transmitted to the Court of District Judge, Aalo to adjudicate the matter afresh. Parties are directed to appear before the Court of District Judge, Aalo on 05.03.2024 and the District Judge is at liberty to re-transfer the same to the Court of Civil Judge (Junior Division), Aalo or the Court of Civil Judge (Senior Division), Aalo, as the case may be as per their territorial and pecuniary jurisdiction. The District Judge is also permitted to dispose of the same or to proceed with the case de novo in accordance with law.

11. This review petition stands disposed of, accordingly.

JUDGE

Comparing Assistant