

GAHC040002512023



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

**Case No. : CRP/13/2023**

Jomkar Loyi  
S/o Late Lido Loyi,  
Secretary, Giida Issi Control Committee, Kabu Village, PO/PS Aalo, District West  
Siang, Arunachal Pradesh.

VERSUS

Tojo Ete and 2 Ors.  
S/o Late Tumto Ete,  
Gune Bane Village, PO/PS Aalo, District West Siang, Arunachal Pradesh. 2:Mili Ete  
Age: 0  
Occupation :  
S/o Late Tumto Ete

R/o Paya Village  
PO/PS Aalo  
District West Siang  
Arunachal Pradesh.  
Phone No. 7627965611

3:Dakmor Ete  
Age: 0  
Occupation :  
S/o Late Kardak Ete

Paya Village  
PO/PS Aalo  
District West Siang  
Arunachal Pradesh

**Advocate for the Petitioner** : Rintu Saikia, Ligam Nochi,Limi Bam,Bomchi Taipodia,Idak Bam

**Advocate for the Respondent** : Duge Soki,

**BEFORE  
HONOURABLE MR. JUSTICE BUDI HABUNG**

**ORDER**

**Date : 05.11.2024**

Heard Mr. L. Bam, learned counsel for the petitioner. Also heard Mr. D. Soki, learned counsel appearing for all the respondents.

**2.** By filing this Civil Revision Petition under Article 227 of the Constitution of India, the petitioner has assailed the order dated 13.01.2023, passed by the learned District Judge, Aalo, whereby the learned District Judge while recalling the order dated 23.08.2022 for filing a fresh petition by the parties has fixed the case for evidence from the appellant's side and also fixed the next date on 22.02.2023. According to the petitioner, the said order has been passed in violation of the Order XLI of the Code of Civil Procedure, 1908 and Section 15 of the Arunachal Pradesh Civil Court's Act, 2021.

**3.** The case of the petitioner is that being aggrieved by the *ex-parte* Keba decision dated 30.10.2021, passed by the village authority of Paya village, the petitioner has filed an appeal before the Court of the District Judge, Aalo, being Civil Appeal No.11/2021 and prayed for setting aside the said Keba order dated 30.10.2021. Upon consideration, the learned District Judge by an order dated 23.08.2022, has decided to proceed the matter for *de novo* trial and directed the parties to file fresh petition as well as fresh reply on the petition. Accordingly, the respondents herein, has filed a fresh petition. However, by the subsequent order dated 13.01.2023, the said order and direction was recalled and the fresh petition filed by the respondents herein, has been treated to have

withdrawn. By the said order dated 13.01.2023, the learned District Judge, Aalo has also ordered that the case shall proceed with the appeal petition filed by the petitioner and the reply filed by the respondents herein. Further, the learned Court has also ordered that the stage of further proceeding of the case shall start from evidence stage and the next date of the case was fixed for placing of evidence(s) from the appellant's side.

**4.** It is the said order, directing for further proceeding of the case from evidence stage, that the petitioner is aggrieved with and hence, filed the present Civil Revision Petition.

**5.** The learned counsel for the petitioner submits that the settlement of the issue(s) is crucial for clarification of dispute and determination of the suit. And unless the issue(s) based of material proposition affirmed by one party and denied by the other are settled, it would be difficult to proceed with the trial of the case as the parties have to lead the evidence based on the issue(s) framed by the Court and the Court has to pronounce judgment on such issues. However, in the instant case, the learned District Judge has directed that the further proceeding of the case shall start from evidence stage by fixing next date for placing of evidence(s) from the petitioner herein. Thereby, the learned District Judge has ordered for skipping the important stage of the trial proceeding.

**6.** The learned counsel however, at this stage, has clarified and made it clear that the petitioner is not aggrieved by the entire order dated 13.01.2023, the only order which the petitioner is aggrieved is that the learned Court without framing issue(s) has ordered further proceeding of the case from the evidence

stage. Hence, the only prayer of the petitioner is that before proceeding with the evidence, the parties may be allowed to submit draft issue(s) and after framing of issue(s) only, the case may proceed with the recording of evidence(s) of the parties.

**7.** Mr. Soki, learned counsel for the respondents has not raised any objection to the submission made by the learned counsel for the petitioner. He on the contrary has conceded with the submission made by the learned counsel for the petitioner and submitted that before proceeding with the case for recording of the evidence(s), the learned District Judge required to settle the issue(s) first.

**8.** In view of the above and on being agreed upon by the learned counsels for the parties, this Court propose to dispose of the present Civil Revision Petition at the admission stage itself, with a direction that before further proceeding into the case from the stage of evidence, the learned District Court, Aalo shall allow the parties to submit their respective draft issue(s) and thereafter, an issue be framed and then the case be proceeded for the evidence of the appellant as per the procedure provided under CPC.

**9.** With the above observations, the Civil Revision Petition stands allowed and disposed of.

**JUDGE**

**Comparing Assistant**