



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

Case No. : WP(C)/91/2020

ADI BOMONG MIKU AND 8 ORS.
W/O LATE NATI MIKU, R/O SILAGE VILLAGE, PO/PS TUTING, UPPER
SIANG DIST. AP.

2: APALO MENA

Age:

Occupation :

3: JEME MIKU

Age:

Occupation :

4: KALING MENA

Age:

Occupation :

5: ARE MIKU

Age:

Occupation :

6: NGASI MENA

Age:

Occupation :

7: MEKEME MELLO

Age:

Occupation :

8: KETE3NE LINGGI

Age:

Occupation :

9: CHULI MIKU

Age:

Occupation

VERSUS

THE STATE OF AP AND 6 ORS.
REPRESENTED BY THE CHIEF SECRETARY, GOVT. OF AP, ITANAGAR-
791111.

2:THE CHIEF SECRETARY

Age: 0

Occupation :

3:THE SECRETARY

Age: 0

Occupation :

4:THE SECRETARY

Age: 0

Occupation :

5:THE PRINCIPAL CHIEF CONSERVATOR OF FOREST

Age: 0

Occupation :

6:THE DEPUTY COMMISSIONER

Age: 0

Occupation :

7:THE DIVISIONAL FOREST OFFICER

Age: 0

Occupation

Advocate for the Petitioner : Sunil Mow

Advocate for the Respondent : GA

Linked Case : WP(C)/94/2022

Asoney Mena and 48 Ors.

Age: 24

Occupation :

Address:D/o Lt. Toko Mena

R/o Village Old Singa

PO/PS Tuting

Upper Siang District

Arunachal Pradesh.

2: Sonam Tsering

Age: 52

Occupation :

Address:S/o Pema Rinchen

Village Singa
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

3: Kama Dekpa
Age: 60
Occupation :
Address:S/o Late Sumpo
Village Singa
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

4: Tashi Lodi
Age: 52
Occupation :
Address:S/o Late P. Riching
Village Old Simulling
PO/PS Tuting
District Upper Siang
Arunachal Pradesh.

5: Mend Umbrey
Age: 33
Occupation :
Address:S/o Late Ganu Umbrey
Village Old Singa
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

6: Rahul Mena
Age: 31
Occupation :
Address:Village Singa
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

7: Tashi Jamtso
Age: 55
Occupation :
Address:S/o Late Jomb Dorjee
Village Singa
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

8: Cheme Tenzing

Age: 45
Occupation :
Address:S/o Late Tsering Dorjee
Village Simulling
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

9: Tharchen Khamba
Age: 40
Occupation :
Address:S/o Tenzing
Village Simulling
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

10: Palchen Khamba
Age: 52
Occupation :
Address:S/o Temphi Khamba
Village Singa
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

11: Jimba Khamba
Age: 45
Occupation :
Address:S/o Late Pema Tenzin
Village Singa
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

12: Sanga Tenzing
Age: 44
Occupation :
Address:S/o Lama Rinjing
Village Simulling
PO/PS Tuting
Upper Siang
Arunachal Pradesh

13: Samten Tsawey
Age: 55
Occupation :
Address:S/o Chemi Kumseng
Village Singa
PO/PS Tuting

District Upper Siang
Arunachal Pradesh

14: Nunu Palden

Age: 50

Occupation :

Address:S/o Late Umo Japho

Village Simulling

PO/PS Tuting

District Upper Siang

Arunachal Pradesh

15: Tsewang Semar

Age: 53

Occupation :

Address:S/o Late Newang Jurmey

Village Simulling

PO/PS Tuting

District Upper Siang

Arunachal Pradesh

16: Kuryang Chuji

Age: 58

Occupation :

Address:S/o Late Pema Khandu

Village Singa

PO/PS Tuting

District Upper Siang

Arunachal Pradesh

17: Dorjee Dumdo

Age: 52

Occupation :

Address:S/o Late. Megu Khampa

Village Simulling

PO/PS Tuting

District Upper Siang

Arunachal Pradesh

18: Kono Khampa

Age: 63

Occupation :

Address:S/o Lt. Thilling Jaslo

Village Singa

PO/PS Tuting

District Upper Siang

Arunachal Pradesh

19: Enjume Umbrey

Age: 62

Occupation :
Address:S/o Late Shri Lulu Umbrey
Village Old Singa
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

20: Ngatho Miku
Age: 35
Occupation :
Address:Village Singa
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

21: Tsewang Palfor
Age: 28
Occupation :
Address:S/o Late Shri Pema Tseten
Village Singa
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

22: Sonam Tsomo
Age: 46
Occupation :
Address:D/o Shri Gombo Dorjee
Village Singa
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

23: Jurme Rizin
Age: 65
Occupation :
Address:S/o Shri Lulu Jamtso
Village Tashigong
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

24: Gundu Dorjee
Age: 65
Occupation :
Address:S/o Late Shri Pema Titha
Village Tashigong
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

25: Kunjang Sephel
Age: 35
Occupation :
Address:S/o Shri Phuntso Memba
Village Singa
Upper Siang District
Arunachal Pradesh

26: Chime Temphi
Age: 70
Occupation :
Address:S/o Late Shri Karma Sonam
Village Tashigong
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

27: Lobsang Jamtsen
Age: 71
Occupation :
Address:S/o Late Shri Dorjee Tsering
Village Tashigong
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

28: Sangje Dorjee
Age: 62
Occupation :
Address:S/o Shri Sangje Churphi
Village Mankota
District Upper Siang
PO/PS Tuting
Arunachal Pradesh

29: Kunjang Nyima
Age: 34
Occupation :
Address:S/o Shri Karma Wangchuk
Village Tashigong
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

30: Sangje Dolma
Age: 51
Occupation :
Address:S/o Shri Pema Dawa

Village Singa
District Upper Siang
PO/PS Tuting
Arunachal Pradesh

31: Wangde Memba
Age: 76
Occupation :
Address:S/o Late Shri Ugyen Tenzin
Village Singa
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

32: Peeha Khamba
Age: 48
Occupation :
Address:S/o Shri Pema Tenzin
Village Singa
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

33: Miching Khamba
Age: 59
Occupation :
Address:S/o Shri Temphi Khamba
Village Mankota
PO/PS Tuting
District Upper Siang
Arunachal Pradesh.

34: Ledup Dorjee
Age: 42
Occupation :
Address:S/o Shri K. Dakpa
Village Singa
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

35: Parden Memba
Age: 61
Occupation :
Address:S/o Shri Tashi Manje
Village Tashigong
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

36: Dechen Lhudup
Age: 36
Occupation :
Address:S/o Shri Titha Guru
Village Tashigong
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

37: Dorjee Tenzin
Age: 65
Occupation :
Address:S/o Shri Pema Ngawang
Village Tashigong
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

38: Sonam Tenzing
Age: 24
Occupation :
Address:S/o Shri Dorjee Rinzin
Village Singa
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

39: Pema Wangpo
Age: 34
Occupation :
Address:S/o Shri Rigzin Choephel
Village Singa
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

40: Dorjee Tsering
Age: 37
Occupation :
Address:S/o Shri Jamyang Lodi
Village Tashigong
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

41: Tendri Lhamo
Age: 27
Occupation :
Address:S/o Late Shri Konchok Tseten

Village Singa
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

42: Wanchuk Khamba
Age: 45
Occupation :
Address:S/o Shri Dorjee
Village Simulling
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

43: Mindu Dorjee
Age: 62
Occupation :
Address:S/o Shri Khando Memba
Village Mankota
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

44: Tendo Khamba
Age: 72
Occupation :
Address:S/o Shri Lulu Jamtso
Village Tashigong
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

45: Chunzing Dorjee
Age: 65
Occupation :
Address:S/o Shri Thinley Jamtso
Village Singa
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

46: Mini Mello
Age: 24
Occupation :
Address:D/o Shri Mekeme Mello
Village Angachi
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

47: Jome Miku
Age: 45
Occupation :
Address:S/o Late Doka Miku
Village Silage
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

48: Asoli Mena
Age: 23
Occupation :
Address:S/o Shri Toko Mena
Village Old Singa
PO/PS Tuting
District Upper Siang
Arunachal Pradesh

49: Danku Embey
Age: 29
Occupation :
Address:S/o Late Shri Gamu Embey
Village Old Singa
PO/PS Tuting
District Upper Siang
Arunachal Pradesh
VERSUS

THE STATE OF AP and 7 Ors.
Age: 0
Occupation :
Address:Represented by the Chief Secretary
Govt. of Arunachal Pradesh. Itanagar 791111
2:The Chief Secretary
Age: 0
Occupation :
Address:Govt. of Arunachal Pradesh
Civil Secretariat
Itanagar 791111. Arunachal Pradesh.

3:The Secretary
Age: 0
Occupation :
Address:Department of Environment and Forests
Govt. of Arunachal Pradesh
Itanagar 791111

4:The Principal Chief Conservator of Forest (PCCF)
Age: 0
Occupation :

Address:Govt. of Arunachal Pradesh
Near Mithun Gate
Itanagar
Arunachal Pradesh 791111

5:The Principle Secretary
Age: 0
Occupation :
Address:(Environment and Forest)
Govt. of Arunachal Pradesh
Ziro point
Itanagar 791111
Arunachal Pradesh

6:The Deputy Commissioner
Age: 0
Occupation :
Address:Yingkiong
Upper Siang
Arunachal Pradesh 791002

7:The Divisional Forest Officer
Age: 0
Occupation :
Address:District Yingkion
Upper Siang
Arunachal Pradesh
Itanagar 791002

8:Monge Mello
Age: 0
Occupation :
Address:Ex Anchal Chairperson Kikor Singa
PO/PS Tuting
Upper Siang
AP

Advocates for the petitioner	:	Mr. S. Mow, Mr. R. Ingo. Mr. M. Milli. Mr. E. Mili. Mr. A. Rai. Mr. T. Umbey. Mr. C. Bangsia. Mr. K. Miyu. Mr. S. Tsomo.
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Mr. K.N. Maling.

Advocate for the respondents : Ms. G. Ete, Addl. Sr. Govt. Advocate.

Mr. T. Tapak.

**BEFORE
HONBLE MR. JUSTICE KARDAK ETE**

JUDGMENT

Date : 31-07-2024

Heard Mr. S. Mow, learned counsel for the petitioners. Also heard Ms. G. Ete, learned Addl. Senior Govt. Advocate appearing for respondent Nos.1—9 in WP(C) No.91/2020 and respondent Nos.1—7 in WP(C) Nos.94/2022 and Mr. T. Tapak, learned counsel for the respondent No.8 in WP(C) Nos.94/2022.

(2) As the issues involved in both these Writ Petitions are one and same, are taken up for hearing and disposed of by this common judgment and order.

(3) By filing these writ petitions, the petitioners have assailed the veracity of the Gram Sabha Resolution dated 06.11.2013 and the Deed of Agreement executed on 09.12.2013. The petitioners have also challenged the Certificate of mutation and Non-encumbrance Certificate dated 30.10.2015, issued by the Deputy Commissioner, Upper Siang. Challenge is also made to the Preliminary Notification dated 05.10.2018 proposing to constitute/declare Idu Keba Village Forest Reserve (here-in-after referred to as 'the VFR') for an area measuring 47620 Hectares, issued by the Principal Secretary, Department of Environment & Forest, Govt. of Arunachal Pradesh. The further challenge of the petitioners is to the order dated 11.03.2020, issued by the Additional Deputy Commissioner, Upper Siang District, by which all the HGBs/GBs/Public/Land owners/stakeholders and villagers inviting for claims and objections and meeting for the purpose of constitution of the VFR.

(4) The petitioners claim to be permanent residents of different villages within Singa Circle of Upper Siang District of Arunachal Pradesh have filed these two Writ Petitions, projecting that on 06.11.2013, a resolution was adopted by the Gram Sabha meeting and decided to declare the community land as Idu Keba VFR for an area approximately 54993.00 Hectares of

land in the Singa Circle under the Chairmanship of the respondent No.8 in Writ Petition (C) No.94/2022. It is alleged that the signatures of some of the members were forged and some others were made to sign under wrong influence to obtain the documents for notification of the Idu Keba for constitution of the VFR. Pursuant to such alleged illegal resolution, a Deed of Agreement was prepared by some persons (ten in numbers) vide dated 09.12.2013. Basing upon the said resolution and the agreement thereafter, the Deputy Commissioner, Upper Siang District, vide dated 30.10.2015, issued the Certificate of mutation and Non-encumbrance Certificate, stating that an area of 47620 Hectares of degraded Idu Community land in the Singa Circle of the Upper Siang District has been voluntarily donated by the villagers of Singa Village to the Department of Environment & Forest, Govt. of Arunachal Pradesh, for the purpose of constitution of the VFR.

(5) Thereafter, the Principal Secretary, Department of Environment & Forest, Govt. of Arunachal Pradesh vide order dated 05.10.2018, issued a Preliminary Notification under Section 3A of the Arunachal Pradesh Anchal Forest Reserve (Constitution and Maintenance) Act, 1975 and its Amendment Act, 1984, read with Sections 4 and 5 of the Assam Forest Regulation, 1891, by proposing to constitute the Idu Keba VRF, for an area of 47620 Hectares of land, at Singa Village under the Singa Circle of Upper Siang District. Accordingly, the Additional Deputy Commissioner, Upper Siang District had issued an order dated 11.03.2020, inviting all the HGBs/ GBs/Public/Land owners/stakeholders and villagers, falling under the proposed Idu Keba VFR for filing claims and objections and meeting for constitution of the said VFR.

(6) It is contended that the villagers including some of the petitioners (eight in numbers) filed a complaint before the Superintendent of Police, Upper Siang District, alleging forgery and fraud, as the resolution dated 06.11.2013 was taken illegally under the Chairmanship of the Anchal Samity Chairperson, on which basis an agreement dated 09.12.2013 was entered into, whereby the land of the villagers was donated for constitution of the Idu Keba VRF. Thereafter, another complaint was lodged before the Judicial Magistrate First Class, Yingkiong, which is pending for trial.

(7) Mr. S. Mow, learned counsel for the petitioners submits that the resolution passed pursuant to the Gram Sabha dated 06.11.2013 is not as per provision under Sections 7 & 8 of

the Arunachal Pradesh Panchayat Raj Act, 1997. He submits that such resolution of the Gram Sabha is required to be chaired by the Chairperson of the Gram Panchayat and not by the Anchal Chairperson. The resolution clearly reflects that the said Gram Sabha was conducted under the Chairmanship of the Anchal Chairperson. That apart, the members shown to have attended the Gram Sabha and their signatures are all forged, which is clearly an act of fraud on the innocent villagers. He submits that the agreement dated 09.12.2013 to donate the land for constitution of the Idu Keba VFR, in pursuant to the illegal resolution, that too signed by only ten persons, is void as the same has no legal validity.

(8) Mr. S. Mow, learned counsel, submits that the basis of issuance of certificate of mutation and the non-encumbrance certificate dated 30.10.2015 by the Deputy Commissioner, Upper Siang District, being the illegal resolution dated 06.11.2013 and deed of agreement dated 09.12.2013, such certificates are also void and cannot be acted upon. He further submits that subsequent proceedings of issuance of Preliminary Notification dated 05.10.2018 and the order dated 11.03.2020, issued by the Additional Deputy Commissioner, Upper Siang District, calling for meeting and to file claims and objection are also *non est* and cannot be acted upon. Mr. S. Mow, learned counsel further submits that the constitution of VFR will deprive the land owners in the Singa area, as once the VFR is constituted on the land of the villagers including the petitioners, they will have no any right to cultivate and use the area, which will infringe the rights of the villagers and shall seriously affect the livelihood of the villagers in general. Therefore, he submits that the entire proceedings – right from the Gram Sabha resolution upto the last impugned order 11.03.2020, calling for a meeting and for filing claims and objections are all illegal and as such not sustainable, therefore, same may be set aside and quashed.

(9) Per contra, Ms. G. Ete, learned Addl. Senior Govt. Advocate, while referring to the affidavit filed on behalf of the State respondents, submits that the Gram Sabha resolution dated 06.11.2013, was passed by the members of the Gram Panchayat. It has no relevance whether the Gram Sabha was conducted under whose Chairmanship. If the Gram Sabha meeting is attended by members of the Panchayat and passed the resolution, same is legally acceptable. She submits that pursuant to the Gram Sabha resolution, a deed of agreement was made, duly signed by the Anchal Samity Members, Gram Panchayat Members, Gaon Burhas, Ex-ASM, Ex-ZPM, public leaders and villagers of Idu Community of Singa Circle. By

the said agreement, it is unanimously decided to donate 47620 Hectares of degraded community land voluntarily to the Department of Environment & Forest, Govt. of Arunachal Pradesh, for the purpose of protection of wildlife and natural properties of the area and also for implementation of the beneficial Central/State schemes or projects including compensatory afforestation and the Department of Environment & Forests, Govt. of Arunachal Pradesh has been authorized to notify the VFR over the said area by constituting the Idu Keba VFR.

(10) She submits that thereafter, the Deputy Commissioner, Upper Siang District in accordance with the requirement has issued the Certificate of mutation and the Non-encumbrance Certificate on 30.10.2015. Accordingly, the Preliminary Notification was issued on 05.10.2018. Thereafter, the Additional Deputy Commissioner, Upper Siang District vide order dated 11.03.2020, had invited for a meeting calling all the HGBs/GBs/Public/Land owners/stake holders and villagers, requesting them to attend the meeting and to file claims and objections for constitution of the Idu Keba VFR.

(11) Ms. G. Ete, learned Addl. Senior Govt. Advocate further submits that it was unanimously decided to donate 47620 Hectares of degraded community land voluntarily for the purpose of protection of wildlife and natural resources by notification as Village Forest Reserve after the Gram Sabha resolution dated 06.11.2013, and deed of agreement dated 09.12.2013 in the court of Judicial Magistrate First Class, Tuting. Such constitution of VFR would not alienate the community from their ancestral degraded land since their continuance of certain rights has already been mentioned in the deed of agreement dated 09.12.2013. In fact, Village Forest Reserve is constituted under Arunachal Pradesh Anchal Forest Reserve (Constitution and Maintenance) Act, 1975 (Act No.1 Of 1976) and as per the Arunachal Pradesh Anchal and Village Forest Reserve (Constitution and Maintenance) Amendment Act, 1984 read with section 4 & 5 of Assam Forest Regulation, 1891. The Section 5 and 5A of the said Acts stipulates that State Government shall transfer to the Village Panchayat every year 50% of the net revenue after recovering the amount the State Government is entitled to recover like capital expenditure and recurring and non- recurring expenditure which shall be used for the development activities of the concerned villager.

(12) Ms. G. Ete, learned Addl. Senior Govt. Advocate, submits that the allegations leveled against the Divisional Forest Officer, Yingkiong of deceiving the villagers and luring of CAMPA fund is baseless. In fact, the Divisional Forest Officer, Yingkiong does not personally stand to gain anything if the vast tract of degraded forest community land of 47620 Hectares is brought under the management of Department of Forest & Wildlife, Government of Arunachal Pradesh and declared/ notified as VFR in Government records. The mutation deed dated 30.10.2015 issued by Deputy Commissioner, Upper Siang District, Yingkiong in the name of Department of Environment & Forest, Government of Arunachal Pradesh bears testimony to this fact.

(13) Ms. Ete, submits that the Divisional Forest Officer vide his letter dated 28.10.2015 addressed to Deputy Commissioner, Yingkiong with copy to principal Chief Conservator of Forest, Pasighat and Additional Deputy Commissioner, Tuting informed that although, the earlier proposed area was 54993 Hectares but for Forest Administrative convenience, it was proposed to constitute the VFR over 47620 Hectares only; based on which mutation certificate and non-encumbrance certificate dated 30.10.2015 were issued by Deputy Commissioner, Yingkiong for 47620 Hectares. Further, the Divisional Forest Officer vide his letter dated 06.03.2018 also clarified that earlier 54,993 Hectares was proposed for constitution of Village Forest Reserve. But later on, as per claims and objections by some villagers, the cultivation area was excluded and so the proposed area had become 47620 Hectares for which mutation and non-encumbrance certificate for 47620 Hectares had been issued by Deputy Commissioner, Yingkiong.

(14) It is further submitted by Ms. G. Ete, learned Addl. Senior Govt. Advocate, that as regards not holding of Gram Sabha and allegation of forged signature, the petitioners have failed to bring any evidence to that effect. The submissions by the petitioners that once the land is donated, it would totally deprive the villagers of their basic rights, necessities and daily needs is not true because the terms and conditions in the deed of agreement dated 09.12.2013 are provided to safeguard the interest of the communities. Further, the Divisional Forest Officer, Yingkiong vide his letter dated 06.03.2017, had excluded the cultivation area of 7373 Hectares of the villagers by already reducing the area of proposed Idu Keba VFR from

54,993 Hectares to 47,620 Hectares. As regards, the villagers being entirely divested of the benefits they receive from the community land, is not a fact. As already stated, as per Section 5A of Arunachal Pradesh Anchal Forest Reserve (Constitution and Maintenance) Act, 1975 and its amendment Act, 1984, 50% proceeds from the net revenue from the Village Forest Reserve, after deduction of capital, recurring and non- recurring expenditure by the department on the Village Forest Reserve, will be directly deposited in the account of such Village Forest Reserve to be used for development activities of the village.

(15) Ms. G. Ete, learned Addl. Senior Govt. Advocate, submits that the maximum numbers of the petitioners have no *locus standi* as they are neither land owners nor elected public representatives. The petitioners have failed to put on record any proof/ evidence of forged signatures or the non-authenticity of the Gram Sabha resolution. There are a number of affidavits filed by following *bonafide* residents of the concerned villages stating that either they attended the Gram Sabha meeting and put their signature or that they did not attend the Gram Sabha meeting due to pre-occupation but fully support the decision of the Gram Sabha for constitution of VFR. Therefore, these Writ Petitions are liable to be dismissed.

(16) Ms. G. Ete, learned Addl. Senior Govt. Advocate submits that there is no illegalities in the process of declaration of constitution of the Idu Keba VFR. She submits that the petitioners have alleged violation of Sections 7 & 8 of the Arunachal Pradesh Panchayat Raj Act, 1997, which is not at all relevant for the purpose of constitution of the VFR and have not been able to show any violation of any provisions of the Arunachal Pradesh Anchal Forest Reserve (Constitution and Maintenance) Act, 1975 and its Amendment Act, 1984 or any provision under the Assam Forest Regulation, 1891 and therefore, she submits that both the Writ Petitions are liable to be dismissed and the respondent authorities may be permitted to complete the process of constitution of the Idu Keba VFR in accordance with law.

(17) Mr. T. Tapak, learned counsel for the respondent No.8 in WP(C) Nos.94/2022, while subscribing to the submissions made by the learned Addl. Senior Govt. Advocate, submits that out of fifty eight (58) petitioners in both the Writ Petitions, only nine (9) petitioners are the residents of the Singa Village under the Singa Circle and the rests are non-residents and are from other district of Arunachal Pradesh, who does not have any locus to file the present

petitions. Therefore, these Writ Petitions are un-merited and the same are liable to be dismissed on the ground of locus to file the same.

(18) Due consideration has been extended to the submissions advanced by the learned counsel for the parties and also perused the materials available on record.

(19) The relevant law pertains to Forest in this part of country is the Assam Forest Regulation, 1891, which has been adopted by the State of Arunachal Pradesh, which regulates the constitution of any land as Reserved Forest. Section 4 & 5 of the Assam Forest Regulation, 1891 provides for constitution of the Reserved Forest and the manner and the procedure for such constitution.

Section 11 provides, which is reproduced here-in-below:

“11. (1) In the case of a claim to a right in or over any land other than the following rights, namely:-

(a) a right of way.

(b) a right to watercourse or to use of water,

(c) a right of pasture or to forest produce, the Forest Settlement Officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

(2) If such claim is admitted wholly or in part, the Forest Settlement Officer may.-

(a) come to an agreement with the claimant for the surrender of the right, or

(b) exclude the land from the limits of the proposed forest, or

(c) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1894.

(3) For the purpose of so acquiring such land-

(i) the Forest Settlement Officer shall be deemed to be a Collector

proceeding under the Land Acquisition Act, 1894;

(ii) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 9 of that Act;

(iii) the provisions of the proceeding section of that Act shall be deemed to have been complied with, and

(iv) the Collector, with the consent of the claimant, may award compensation in land, or in money, or partly in land and partly in money.

Section 29 provides for the constitution of the village forest, which provides that the State Government by notification in the Official Gazette, constitute any land at the disposal of the Government a village forest for the benefit of any village community or group of village communities, and may, in like manner, vary or cancel any such notification. It further provides that every such notification shall specify the limits of such village forest.

Section 31 provides that all claims to any rights other than the rights of the village community or group of village communities, for the benefit of which such village forest is constituted, shall be inquired into recorded, and provided for in the manner prescribed by Chapter II of the Regulation.

(20) The State of Arunachal Pradesh enacted the Arunachal Pradesh Anchal Forest Reserve (Constitution and Maintenance) Act, 1975 to provide for constitution and maintenance of Anchal Reserved Forest in Arunachal Pradesh. Section 3 of the said Act provides that the State Government may, by notification in the Official Gazette, constitute any land (other than Reserved Forest) at the disposal of the Government as an Anchal Forest Reserve in the manner provided in Chapter II of the Assam Forest Regulation, 1891, for the constitution of Reserved Forest.

(21) It is noticed that the said Act has been amended in the year 1984, whereby the word 'Anchal' has been deleted and substituted by the word 'Village'. By the said amendment,

Section 5A has been inserted, which provides as follows:

"5A. The revenue earned from each Village Forest Reserve shall be shared by the State Government and the concerned Village Panchayat in the manner hereinafter provided-

(i) The State Government shall meet the ordinary non-recurring and recurring expenditure of any year out of the revenue received during the year from the management of the Village Forest Reserve. The balance left after meeting such expenditure shall hereinafter referred to as the net revenue of the year.

(ii) The State Government shall retain every year fifty per-cent of the net revenue of the year: Provided that if in any year, the ordinary non- recurring and recurring expenditure equals or exceeds the ordinary non- recurring and recurring expenditure over the revenue receipts, such excess expenditure shall be added to capital expenditure for the purpose of clause (iii).

(iii) All capital expenditure in a year shall be borne in the first instance by the State Government which shall be entitled to recover such capital expenditure at the rate of ten per- cent till such time it is completely recovered. If there is any deficiency in any year in the recovery of capital expenditure as aforesaid, it shall be made out of the net revenue of succeeding year or years so that total recovery of capital expenditure shall be made without default.

(iv) The State Government shall transfer to the Village Panchayat every year fifty per-cent of the net revenue of the year less the amount the State Government is entitled to recover under clause (iii). This amount shall be utilized for the development activities of the village concerned in such manner and by such authority as may be prescribed."

(22) On careful reading of the above provisions, for the purpose of constitution of VFR, the manner and procedure has been clearly laid down. It provides that the Government has the power to constitute a VFR for the benefit of the villagers, which is at the disposal of the Government. It also provides that the revenue earned from each VFR shall be shared by the

State Government and the concerned Village Panchayat, in the manner provided therein. The constitution of such VFR is basically for the benefit of the villagers of the area.

(23) On consideration of the materials, it reveals that the Gram Sabha was conducted under the Chairmanship of the Anchal Samity Chairperson. The learned counsel for the petitioners has vehemently submitted that the Gram Sabha having being conducted under the Chairmanship of the Anchal Samity Chairperson and not under the Chairmanship of the of the Gram Panchayat, the resolution adopted in such a Gram Sabha is void. That apart, he has alleged forgery regarding the signatures of the persons, said to have attended the Gram Sabha. Some of the petitioners have filed an FIR and a complaint before the appropriate authority and the Court, which is stated to be pending trial. Since allegation of forgery is pending before the Court below, this Court would not go into the veracity of the same. However, from the bare perusal of the resolution, in the considered view of this Court, same has been adopted after the Gram Sabha meeting on 06.11.2013. The resolution once adopted by holding the Gram Sabha, non-adherence to the provisions of the Arunachal Pradesh Panchayat Raj Act, 1997, would not have any relevance for the purpose of constitution of VFR. Even otherwise, record reveals that the panchayat members or persons attended the Gram Sabha have supported the resolution adopted in the Gram Sabha.

(24) Pursuant to such resolution, an agreement was entered into, represented by the Anchal Samity members, Gram Panchayat members, Head Goan Burhas, Gaon Burhas, Public and other stake holders and have unanimously decided to donate the degraded community land voluntarily for constitution of the Idu Keba VFR, which is in the interest and benefit of the villagers of Singa Village under Singa Circle of the Upper Siang District. Basing upon such resolution dated 06.11.2013 and the agreement dated 09.12.2013, the Deputy Commissioner, Upper Siang District issued the Mutation Certificate and Non-encumbrance Certificate on 30.10.2015. Thereafter, the authority has issued the Preliminary Notification on 05.10.2018, for the constitution of the Idu Keba VFR, in accordance with the provisions of the Assam Forest Regulation, 1891 and the Arunachal Pradesh Anchal Forest Reserve (Constitution and Maintenance) Act, 1975, for an area measuring 47620 Hectors, in Singa Circle of Upper Siang District.

(25) It is noticed that the Preliminary Notification dated 05.10.2018 has been issued as per

the power conferred by the above Act and Regulation, wherein it also provides to appoint the Secretary, Government of Arunachal Pradesh to hear the appeals under Section 21 of the Regulation, which is in consonance with the provisions of the above Act and Regulation.

(26) The order dated 11.03.2020, passed by the Addl. Deputy Commissioner, Tuting is also, in the considered view of this Court is in accordance with the provisions of the Act/Regulation, which clearly reflects invitation to all the Head Goan Burhas, Gaon Burhas, Public, land owners and other stake holders, falling under Idu Keba VFR, to attend the meeting and to file claims and objections for constitution of such VFR.

(27) Having considered the materials and the provisions of the Assam Forest Regulation, 1891 as well as the Arunachal Pradesh Anchal Forest Reserve (Constitution and Maintenance) Act, 1975 and its Amendment Act, 1984, I am of the considered view that the authorities have acted in accordance with the provisions of the Act and Regulation for constitution of the Idu Keba VFR. This Court finds no infirmity in the entire proceedings, adopted by the respondent authorities. Therefore, I am of the view that the respondents have acted in accordance with the provisions, as required to be followed under the Assam Forest Regulation, 1891 as well as the Arunachal Pradesh Anchal Forest Reserve (Constitution and Maintenance) Act, 1975 and its Amendment Act, 1984.

(28) In view of the discussions and conclusions arrived here-in-above, I find no infirmity or any illegality in the process of constitution of the Idu Keba VFR at Singa Village in Singa Circle of the Upper Siang District. There is no merit in these two Writ Petitions and accordingly, both the Writ Petitions stands dismissed. The respondents are directed to complete the process and constitute the Idu Keba VFR after convening a meeting as per the order dated 11.03.2020, passed by the Addl. Deputy Commissioner, Tuting, in accordance with law.

(29) It is made clear that dismissal of the Writ Petitions shall not in any way influence the trial of the pending case before the Court below.

JUDGE

Comparing Assistant