

GAHC040003902022

2024:GAU-AP:1058



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

Case No. : CRP/10/2022

Sri Tsering and 8 Ors.
Permanent Resident of Village Lish, PO and PS Dirang, District West Kameng,
Arunachal Pradesh

2: Sri Karma Tsering @ KamTsering
Age:
Occupation :
Permanent Resident of Village Lish
PO and PS Dirang
District West Kameng
Arunachal Pradesh.

3: Sri Dapa
Age:
Occupation :
Son of Sri Tsering

Permanent Resident of Village Lish
PO and PS Dirang
District West Kameng
Arunachal Pradesh.

4: Sri PassangDargey
Age:
Occupation :
Son of Late Tsering

Permanent Resident of Village Lish
PO and PS Dirang
District West Kameng
Arunachal Pradesh.

5: Sri KarchungTui
Age:

Occupation :
Son of Late Tsering

Permanent Resident of Village Lish
PO and PS Dirang
District West Kameng
Arunachal Pradesh.

6: Sri Tokolo
Age:
Occupation :
Son of Late Kesang

Permanent Resident of Village Lish
PO and PS Dirang
District West Kameng
Arunachal Pradesh.

7: Sri Doko
Age:
Occupation :
Son of Late Mindu

Permanent Resident of Village Lish
PO and PS Dirang
District West Kameng
Arunachal Pradesh.

8: Sri Pektang
Age:
Occupation :
Son of Late NeikiNorbu

Permanent Resident of Village Lish
PO and PS Dirang
District West Kameng
Arunachal Pradesh.

9: Sri Nari
Age:
Occupation :
Son of Sri Pektang

Permanent Resident of Village Lish
PO and PS Dirang
District West Kameng
Arunachal Pradesh

VERSUS

Sri Sange Tsering @ Bonpu and 2 Ors.
Permanent Resident of Village Lish, PO and PS Dirang, District West Kameng,
Arunachal Pradesh.

2:Sri Nima
Age: 0
Occupation :
Son of Sri Towpu

Permanent Resident of Village Lish
PO and PS Dirang
District West Kameng
Arunachal Pradesh.

3:Sri LeikiDakpa
Age: 0
Occupation :
Son of Sri Towpu

Permanent Resident of Village Lish
PO and PS Dirang
District West Kameng
Arunachal Pradesh

Advocate for the Petitioner : Bedanta Kaushik, Adam Tatak,Dorjee Tsering Sermupa

Advocate for the Respondent : Lissing Perme, Krishna Dubey,Hero Tayo,A Perme,A Lamnio,Wintet
Sawin

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

Date of hearing : 04.03.2024

Date of Judgment & order: 29.11.2024

JUDGMENT & ORDER (CAV)

Heard Mr. Bedanta Kaushik, learned counsel, appearing on behalf of the petitioners. Also heard Mr. Lissing Perme, learned counsel, appearing on behalf of the respondents.

2. The appellants by way of instituting the present proceeding, have assailed an order, dated 31.01.2022, passed by the learned District Judge, West Kameng District, Bomdila, in Civil Appeal No. 01/2021. The appellants have also challenged the institution of Title Suit No. 01/2022 and I.A. No. 10/2022, by the respondents, herein, before the Court of learned District Judge, West Kameng District, Bomdila, in terms of the liberty as granted vide the said order, dated 31.01.2022.

3. The brief facts requisite for the purpose of adjudication of the issues arising in the present proceeding, is noticed as under:

It is projected in the revision petition that some of the petitioners had on 10.08.2021, lodged a complaint before the Lis village authority that the respondent No. 1 had attempted to encroach upon their land measuring 1494 sq. mtrs. located at Tsaloama. A hearing was stated to have been held on 13.08.2021, and on hearing the parties, the Lis village authority had on 13.08.2021, declared that the land, in question, belonged to the petitioners, herein. It was also projected that in the said hearing that it was brought to the notice of the village authority that in the year 2003; the same dispute was raised by the father of the respondent and the dispute was settled in favour of the petitioners. It was contended that the decision of the Lis village authority, dated 13.08.2021, was duly certified in the certificate, dated 25.08.2021. It was further contended that after the declaration of the right, title and possession in favour of the petitioners on 13.08.2021, by the Lis village authority; some of the petitioners had on 14.08.2021, gone to the suit land to make some permanent boundary fencing. However, they were threatened therein by the respondent No.1's

son and some of his friends.

The petitioners contend to have approached the Lis village authority and on such approach being made before the Lis village authority and the incident so occasioning on 14.08.2021, being brought to the notice of the village authority; the Lis village authority had suggested to the petitioners, herein, to approach the Dirang Tsopa. Accordingly, on 14.08.2021, two of the petitioners lodged a complaint before the Dirang Tsopa that after the decision taken by the Lis village authority and conveyed to the respondent No. 1, the respondent is not complying with the decision of the Lis village authority. A parwana, dated 26.08.2021, came to be issued by the Dirang Tsopa to the respondent No. 1 on the basis of the complaint made by some of the petitioners before it for a hearing on 29.08.2021. It is contended that after the hearing and on a physical visit to the disputed land; the members of the Dirang Tsopa passed an order, dated 29.08.2021, declaring the right over the land in dispute in favour of the petitioners, herein.

The respondent No. 1 being aggrieved by the order, dated 29.08.2021, instituted an appeal being Civil Appeal No. 01/2021 before the learned District Judge, West Kameng District, Bomdila, on the ground that the Dirang Tsopa had no jurisdiction to decide during the pendency of the proceedings before the Lis village authority which had the original jurisdiction to decide the issue. On receipt of the notice, the petitioners, herein, entered appearance in the appeal and filed their objections. Thereafter, the learned District Judge, West Kameng District, Bomdila, heard the matter and vide order, dated 31.01.2022, proceeded to set aside the decision of the Dirang Tsopa, dated 29.08.2021, holding it to have no

original jurisdiction to decide the matter of other villages when there is already a village council for the village, in question, and the matter was pending before it. The learned District Judge, West Kameng District, Bomdila, further proceeded to hold that there is no forum by the name Dirang Tsopa recognized under the provisions of the Assam Frontier(Administration of Justice) Regulation, 1945.

Accordingly, the learned District Judge, Bomdila, vide the order, dated 31.01.2022, set aside the certificate, dated 25.08.2021, issued by the Lis village authority certifying their decision, dated 13.08.2021, concerning the petitioners and the respondents, herein. The learned District Judge, thereafter, directed for a de novo proceeding by giving liberty to the respondent No. 1, herein, to present a plaint within 45 days as the plaint in the appeal petition, was held to be not technically sound.

4. Being aggrieved, the petitioners have instituted the present proceeding before this Court.

5. Mr. Kaushik, learned counsel for the petitioners, has challenged the order, dated 31.01.2022, passed by the learned District Judge, West Kameng District, Bomdila, in Civil Appeal No. 01/2021, firstly, on the ground that the learned District Judge exceeded the jurisdiction vested on it by setting aside the Certificate dated 25.08.2021, certifying the decision dated 13.08.2021 passed by the Lis Village Authority, when the same was not a subject-matter of challenge in Civil Appeal No. 01/2021. While doing so, it is contended that the learned District Judge, arrived at findings based on assumption that the alleged decision was delivered under the biased

environment and that the conduct of the village council is also subject to question, without there being any material on record, to sustain such conclusion.

6. Mr. Kaushik, learned counsel, has further contended that the learned District Judge, overlooked the provisions of Regulation 36 of Assam Frontier (Administration of Justice) Regulation, 1945, which confers powers to the Village authorities to administer Civil Justice and Regulation 44 provides the manner in which hearing are conducted by the Village authorities. The said regulation also provides clearly that decision is required to be pronounced and thus, the certificate, dated 25.08.2021, certifying the decision pronounced on 13.08.2021, is the proof of pronouncement of such decision on 13.08.2021 by the Lis village authority. It was further contended that the learned District Judge while considering the order passed by the Dirang Tsopa, failed to appreciate that the Dirang Tsopa also included as its constituents, the members of Lis village authority, who had pronounced its decision with regard to the disputed land on 13.08.2021 and accordingly, it is submitted that without examining the members of the Lis village authority, it was not open to the District Judge to draw conclusions with regard to the decision so arrived at by such authority on 13.08.2021 and certified vide the certificate, dated 25.08.2021.

7. Mr. Kaushik, learned counsel, has challenged the order, dated 31.01.2022, passed by the learned District Judge, West Kameng District, Bomdila, in Civil Appeal No. 01/2021, secondly, on the ground that the learned District Judge ventured into areas beyond pleadings and arrived at perverse conclusion to the extent that the Dirang Tsopa consisting of

different village authorities of different villages, did not have the jurisdiction to decide disputes pertaining to land falling under the jurisdiction of the village authority of the village wherein, such land is situated. It is further submitted that the Dirang Tsopa happens to be highest customary court in the Monpa community having jurisdiction over Dirang areas and District administration also recognize its powers. Furthermore, Section 2(d) of Arunachal Pradesh Civil Courts Act, 2021 defines customary court and the same recognises the village authorities indigenous to the state by whatever name called, and accordingly, recourse taken by the petitioners before the said body and directions passed by the Dirang Tsopa cannot be held to have been so passed without jurisdiction.

8. Mr. Kaushik, learned counsel, has challenged the order, dated 31.01.2022, passed by the learned District Judge, West Kameng District, Bomdila, in Civil Appeal No. 01/2021, thirdly, on the ground that the learned District Judge, while deciding to proceed de novo, could not have also proceeded to grant liberty to the respondent No. 1, herein, who was the sole appellant, to present a plaint in the matter, by holding that the appeal petition was not technically sound for deciding the suit. Accordingly, it is submitted that instituting of T.S. No. 01/2022 and I.A. No. 10/2022, by the respondents, herein; would call for an interference by this Court.

9. Mr. Kaushik, learned counsel for the petitioners, has submitted that under the provisions of the second proviso to Section 15(3) of the Arunachal Pradesh Civil Court Act, 2021; power is conferred upon the learned District Judge to hear appeal from the customary Court and to either dispose of the appeal and/or to proceed with the case, de novo. It is

further submitted by the learned counsel that the disposal of an appeal means that the learned District Judge may uphold the decision of the customary Court if no error is found in the decision of the customary court but if it does not concur with the decision of the Customary Court and doubts that the decision is not just and/or passed in violation of the principles of natural justice, or, not to be in consonance with the fundamental principles of fair administration of justice, it may proceed de novo. It is contended that while proceeding de novo, the District Judge shall have all powers to examine the correctness of the decision and upon finding error in the decision, it can interfere with the decision and for the purpose of arriving at such conclusion that the decision of customary court/village authority is not just and/or to doubt the justice of the decision; the District Judge shall have all powers to examine witnesses to unearth the truthfulness of the grounds raised in the appeal.

10. Mr. Kaushik, learned counsel for the petitioners, has also submitted that the learned District Judge, West Kameng District, Bomdila, vide order, dated 31.01.2022, while proceeding to direct for deciding the proceeding de novo, erred in allowing the respondents, herein, to prefer a fresh plaint in-as-much as per Section 26 of the Code of Civil Procedure, 1908, on presentation of a plaint; a suit is said to be instituted and in such event, the same shall have to be covered by the provisions of the Code of Civil Procedure, 1908, and such suit would not be permissible to be heard by the learned District Judge while exercising its appellate powers under the Arunachal Pradesh Civil Court Act, 2021.

11. Mr. Kaushik, learned counsel, has also submitted that the decision of

the Lis village authority, dated 31.08.2021, although not being a part of challenge in Civil Appeal No. 01/2021; the learned District Judge, West Kameng District, Bomdila, vide order, dated 31.01.2022, in excess of jurisdiction vested in it, had interfered with such decision.

12. Mr. Kaushik, learned counsel, has also submitted that the appellate Court having decided to proceed with the proceeding, de novo, the further direction to file a plaint was uncalled for and the appellate Court should have limited the de novo proceeding to the appeal itself and not beyond. Mr. Kaushik, by referring to Title Suit No. 01/2022 so filed in the matter, has contended that the said suit was also filed by incorporating persons as plaintiffs other than the appellant involved in Civil Appeal No. 01/2021. The learned counsel has further contended that in the said Civil Appeal No. 01/2021, only one Sange Tsering(Bonpu) was the appellant whereas in the said Title Suit No. 01/2022, so instituted in terms of the liberty granted vide the appellate Court, vide order, dated 31.02.2022, in addition to the appellant in the said appeal, one Nima and Leiki Dakpa were also incorporated as plaintiffs which, according to the learned counsel, is clearly not permissible and no liberty, in this connection was granted by the learned appellate Court vide order, dated 31.01.2022.

13. Accordingly, it is submitted by Mr. Kaushik, learned counsel, that the impugned order, dated 31.01.2022, passed by the learned District Judge, West Kameng District, Bomdila, in Civil Appeal No. 01/2021, is liable to be set aside and consequently, the proceedings in Title Suit No. 01/2022 and I.A. 10/2022, pending in the Court of learned District Judge, West Kameng District, Bomdila, is liable to be quashed with further direction to the

learned District Judge to decide the appeal, in question, in accordance with law.

14. Per contra, Mr. Perme, learned counsel appearing for the respondents, has submitted that the contention of the petitioners, herein, that the Lis village authority had already decided the issue on 13.08.2021, is clearly perverse in-as-much as on the above-noted date, no decision was arrived at by the village authority in the matter. Accordingly, it is submitted that the certificate issued on 25.08.2021, with regard to the purported decision of the Lis village authority, dated 13.08.2021, is clearly perverse and the same has been so done only to favour the petitioners, herein. It is contended that in the event, there existed a decision of the Lis village authority, dated 13.08.2021, there arose no occasion for the petitioners, herein, to again approach the Dirang Tsopa on 14.08.2021, on the same issue. It was further submitted that before the Dirang Tsopa, the existence of the decision of the Lis village authority, purportedly, pronounced on 13.08.2021, was not highlighted.

15. Mr. Perme, learned counsel, has further submitted that the order of the Dirang Tsopa which was put to challenge by the respondents, herein, in Civil Appeal No. 01/2021; there is no reference to any order passed by the Lis village authority on 13.08.2021. The learned counsel has also submitted that the Dirang Tsopa is not a body recognized under the provisions of the Assam Frontier(Administration of Justice) Regulation, 1945, and the said position was also upheld by this Court in its decisions in the case of **Maluk Yomgam v. Damli Yomcha & ors.**, reported in **2016(3) GLT 344** and in the case of **Ekar Riba & anr. v. State of Arunachal Pradesh & ors.**, reported in

2020(1) GLT 888.

16. With regard to the interference made by the learned appellate Court vide order, dated 31.01.2022, passed in Civil Appeal No. 01/2021, to the decision of the Lis village authority, dated 13.08.2021, without the same being under challenge, Mr. Perme, learned counsel, by referring to the provisions of the Order XLI Rule 33 of the Code of Civil Procedure, 1908, has contended that the appellate Court had the power to grant relief even in the absence of a prayer, to do complete justice. In this connection, Mr. Perme, learned counsel, has referred to a decision of the Bombay High Court rendered in the case of **Sattarsha Dibarsha & ors. V. Ajizabi Dilbarsha & ors.**, reported in **2017 0 Supreme(Bom) 91**.

17. With regard to the learned appellate Court vide order, dated 31.01.2022, directing that the suit shall be tried de novo and granting liberty to the respondents to file a plaint in the matter, Mr. Perme, learned counsel, has submitted that the term "de novo" would mean that the trial is to be conducted afresh by the Court as if there had not been a trial in the matter at any point of time. Mr. Perme, learned counsel, has submitted that the trial being directed to be carried-out de novo; for a proper adjudication of the issues arising in the matter, a plaint followed by the filing of a written statement would be called for and the same would advance the cause of justice.

18. I have heard the learned counsels appearing for the parties and also perused the materials available on record. The decisions relied upon by the learned counsels appearing for the parties, have been duly perused.

19. This Court in the present proceeding, is only examining the validity of the order, dated 31.01.2022, passed by the learned District Judge, West Kameng District, Bomdila, in Civil Appeal No. 01/2021. The factual disputes involved in the matter is not examined in view of the nature of the directions being contemplated to be passed herein.

20. The appeal before the learned District Judge, West Kameng District, was so instituted by the respondent No. 1, herein, being so aggrieved by the directions passed by the Dirang Tsopa GBs on 29.08.2021, pertaining to a dispute with regard to the plot of land existing between the respondent No. 1, herein, and the petitioners, herein, situated at Lis village. In Civil Appeal No. 01/2021, it was prayed that the order, dated 29.08.2021, issued by the Dirang Tsopa, was required to be interfered with, with further prayer for a de novo trial in the matter. It was further prayed that an order be issued directing the Deputy Commissioner to appoint members of the village authority under the provisions of Section 5 of the Assam Frontier(Administration of Justice) Regulation, 1945, and to direct the village authority so appointed, to take up the matter, afresh. The pleadings having been brought on record, learned District Judge, West Kameng District, Bomdila, proceeded to consider the issues arising in Civil Appeal No. 01/2021, and upon hearing the learned counsels for the parties and also on perusal of the materials on record, proceeded to draw a conclusion that the Dirang Tsopa GBs would not have jurisdiction to decide the issue as raised before them and involved in the order, dated 13.08.2021. The learned District Judge, West Kameng District, Bomdila, further proceeded to conclude that in the event, there was a decision of the Lis village authority on 13.08.2021, the petitioners would not have filed any case before the All Dirang Tsopa GBs on 14.08.2021. The certificate, dated 25.08.2021,

certifying the decision reached by the Lis village authority on 13.08.2021, accordingly, having come under a cloud; the learned District Judge, Bomdila, was of the view that the matter cannot be remanded back to the village authority for a fresh hearing or re-hearing. Accordingly, the learned District Judge arrived at a conclusion that the appellate Court is bound to take the case, de novo, to secure the ends of justice.

21. Having drawn the above conclusion, the learned District Judge proceeded to interfere with the decision of the All Dirang Tsopa GBs, dated 29.08.2021, and the certificate, certifying, the decision on the disputed land taken on 13.08.2021, issued by the Lis village authorities on 25.08.2021. After having quashed the said decisions of both the Dirang Tsopa and the Lis village authority; the learned District Judge, Bomdila, directed that the suit i.e. Civil Appeal No. 01/2021 would be tried de novo. Accordingly, the respondent No. 1, herein, who was the appellant in Civil Appeal No. 01/2021, was given liberty to present a plaint within 45 days as the appeal petition, was held to be not technically sound, to decide the suit.

22. The power of the learned District Judge, Bomdila, to entertain the appeal from a customary Court, is provided under the provisions of the second proviso to sub-section 3 of Section 15 of the Arunachal Pradesh Civil Court Act, 2021. The provision of Section 15, being relevant, is extracted hereinbelow:

“15. Appeals etc.:

(1) Appeals from the decree or order 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 decree 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 Additional 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.

Provided that, any appeal on civil suits pending in the Courts 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, from the date of commencement of this Act, in case an appeal is preferred against the judgement of Customary Court in the Court of District Judge or in the 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 the case de novo."

23. The second proviso to sub-Section (3) of Section 15 of the said Act of 2021, mandates that from the date of commencement of the Act, in case, any appeal is preferred against the judgement of Customary Court in the Court of the District Judge or in the Court of the 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 the case de novo. The second proviso to sub-Section (3) of Section 15 of the Act of 2021, mandates the manner in which the appeal from a customary Court is to be considered by the Court of the learned District Judge and/or the Court of the learned Additional District Judge, as the case may be. It is open for the Court of the learned District Judge, if satisfied, to dispose of the appeal basing on the materials available on record and in the event, there is any doubt with regard to the decision so arrived and for arriving at a just and fair decision in the matter, it would be open to the Court of the learned

District Judge to proceed with the case de novo, in other words, to enquire into the issues arising afresh. The power to proceed with the case, de novo, cannot be construed to be a power conferred upon the court of the learned District Judge to consider the appeal dehors the provisions of the Code of Civil Procedure, 1908. It only mandates that the appellate court would be in a position to receive evidence from the parties to the proceeding as well as summoning of documents to satisfy itself with regard to the issue arising before it in the appeal and not further.

24. In the present case, it is seen that the learned District Judge, West Kameng District, Bomdila, vide order, dated 31.01.2022, in Civil Appeal No. 01/2021, given the manner in which the orders were so passed by the Lis village authority as well as the absence of any reference of such decision, in the decision rendered by the Dirang Tsopa GBs, a doubt having arisen with regard to such decision, the learned District Judge had rightly concluded that the matter was not permissible to be remanded back to the village authority for a fresh hearing or re-hearing. Accordingly, the prayer made by the respondent No. 1, herein, in Civil Appeal No. 01/2021, for a remand of the matter to the village authority, came to be rejected. However, the learned District Judge in granting liberty to the respondent No. 1, herein, to present a fresh plaint within 45 days as in the appeal petition, was not technically sound for deciding the suit, had clearly exceeded his jurisdiction in-as-much as the filing of a fresh plaint would tantamount to institution of a fresh suit and in the event, the suit is so contemplated to have been so instituted; the appellate Court would have no jurisdiction to try such suit under the provisions of the Code of Civil Procedure, 1908, which is admittedly applicable in proceedings instituted before the learned District Judge, West Kameng District, Bomdila.

25. Further, the provisions of the Arunachal Pradesh Civil Court Act, 2021, also stipulates a customary Court under the provisions of Section 3 thereof, to be a civil Court. Accordingly, the appeal contemplated from a customary Court under the provisions of second proviso to sub-section (3) of Section 15, also have to be construed to be one emanating from a civil Court and accordingly, the Court of the learned District Judge, in such circumstances, is considering the matter in its appellate jurisdiction. Hence, the learned District Judge while directing for a de novo proceeding, could not have converted the proceeding to an original suit in violation of the provisions of the Code of Civil Procedure, 1908.

26. At this stage; it is to be noted that the learned District Judge, West Kameng District, Bomdila, vide order, dated 31.01.2022, passed in Civil Appeal, had granted liberty to the respondent No. 1, who was the appellant, to present a plaint, however, on a perusal of the plaint so filed in T.S. No. 01/2022; it is seen that along with the appellant in Civil Appeal No. 01/2022; 2(two) other persons were also included as plaintiffs, which is clearly impermissible in-as-much as, even if the direction passed by the learned District Judge, passed vide order, dated 31.01.2022, is to be held to be correct; the direction therein, was only to the respondent No. 1, herein, to present a plaint and no liberty was granted to the respondents No. 2 and 3 to institute such plaint.

27. Having drawn the above conclusions, this Court is of the considered view that order, dated 31.01.2022, passed by the learned District Judge, West Kameng District, Bomdila, in Civil Appeal No. 01/2021, cannot be sustained and the same is held to have been so passed in excess of the

jurisdiction so vested in the learned District Judge, West Kameng District, Bomdila, under the provisions of the Arunachal Pradesh Civil Court Act, 2021, and accordingly, the order, dated 31.01.2022, passed by the learned District Judge, West Kameng District, Bomdila, in Civil Appeal No. 01/2021, is hereby set aside.

28. Consequently, the Title Suit No. 01/2022 as well as I.A. No. 10/2022 having been so instituted as per the liberty granted vide order, dated 31.01.2022, and the same having been set aside; the proceedings in Title Suit No. 01/2022 and I.A. No. 10/2022, would also stand set aside.

29. The Civil Appeal No. 01/2021 is, accordingly, restored to the file of the learned District Judge, West Kameng District, Bomdila, with further direction to re-consider the same strictly in accordance with the provisions of law holding the field. It is further provided that in the event, the learned District Judge, Bomdila, is of the considered view that the appeal, in question, cannot be decided basing on the materials already available on record and a de novo proceeding is so deemed; the learned District Judge would be at liberty to receive evidence from the parties to the proceeding in the appeal. However, it would not be permissible to the learned District Judge, West Kameng District, Bomdila, to direct the parties to the proceeding, to file plaints which would have the effect of institution of a suit under Section 26 of the Code of Civil Procedure, 1908.

30. With the above directions and observations, this civil revision petition stands allowed.

31. Send down the connected LCRs to the Court below forthwith.

JUDGE

Comparing Assistant