

GAHC040005992022



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

Case No. : CRP/24/2022

Tadam Taji
S/o Lt. Jobom Taji,
Village Pakarijo, PO/PS Dumporijo, District Upper Subansiri, Arunachal Pradesh.

VERSUS

Talar Taji
S/o Lt. Tajo Taji,
Village Pakarijo, PO/PS Dumporijo, District Upper Subansiri, Arunachal Pradesh.

Advocate for the Petitioner : T T Tara

Advocate for the Respondent : Khoda Tama

B E F O R E
HON'BLE MR. JUSTICE KARDAK ETE

ORDER

14.08.2024

Heard Mr. G. Bam, learned counsel for the petitioner. Also heard Mr. K. Tama, learned counsel for the respondent.

2. By filing this revision petition, the petitioner has put to challenge the order dated 11.04.2022 passed by the Additional Deputy Commissioner, Dumporijo, Upper Subansiri district, Arunachal Pradesh, whereby, the appeal of the respondent was allowed by holding that the disputed land Tar Rijo area belongs to the respondent and the petitioner herein, has no right, title interest and ownership over the land.

3. Brief facts giving rise to present petition are that a dispute had arisen between the petitioner and the respondent in respect of Tar Rijo land. The parties are related to each other as they are descended from same forefathers of last two generations.

3. A keba was conducted on 23.02.2021 on the above dispute between the petitioner and the respondent, wherein, the keba has decided that since the petitioner has paid Rs. 20,000/- as a compensation to the respondent for planting of orange tress, there would not be any dispute with respect to the land in question own by the petitioner. In other words, the dispute was settled in favour of the present petitioner. Being aggrieved, the respondent has filed an appeal under Section 46 of the Assam Frontier (Administration of Justice) Regulation, 1945, before the Additional Deputy Commissioner, Dumporijo, Upper Subansiri district on 04.03.2021.

4. The Additional Deputy Commissioner vide impugned order dated 11.04.2022 has disposed of the appeal of the respondent and held that land in dispute- Tar Rijo area- belongs to the respondent and the petitioner has no right and title over the said land, as the father of the petitioner has put his signature to the keba decision dated 09.02.1980 and the petitioner had raised no objection to the Tar Rijo land distribution keba dated 01.01.2018.

5. Mr. G. Bam, learned counsel for the petitioner submits that the impugned order dated 11.04.2022 has been passed without hearing the petitioner which violates the rules of principle of natural justice i.e. an opportunity hearing. He submits that the keba decision dated 09.02.1980, on which the appellant authority has based his decision has no legal validity, as the petitioner has raised an objection to the said keba decision. He further submits that so far the land distribution, keba of Tar Rijo held on 01.10.2018 is concerned, same is a different area where the petitioner has no connection with the said land. The land in question is a different area. He further submits that if the appellant authority sees ground of doubts of the keba decision, the matter ought to have been tried a fresh by giving an opportunity to the parties including a chance to adduce evidence. Therefore, he submits that apart from not providing any opportunity of hearing, the appellant authority has violated the provisions of the law. Hence, he prays for setting aside of the impugned order dated 11.04.2022.

6. Mr. K. Tama, learned counsel for the respondent on the other hand submits that the petitioner was heard as clearly reflected in the impugned order. Therefore, the contention of petitioner of not giving an opportunity of hearing falls flat. So far as the merit of the matter is concerned, Mr. K. Tama, learned counsel for the respondent fairly submits that indeed there is a disputed question of fact, which requires proper determination by allowing the parties to adduce their respective evidence.

7. I have heard the learned counsel for the parties and also perused the materials available on record.

8. On consideration of the materials available on record including the impugned order dated 11.04.2022 passed by the Additional Deputy Commissioner, it clearly reflects that the petitioner was heard and he had made

his submission to the effect that the land in dispute belongs to him and the Keba held on 23.02.2021 by the village authority is in his favour and he has prayed for upholding the keba decision. It is also reflected that some of the village authorities who were part of the keba with respect to the disputed land were also heard.

9. It is noticed that the Addl. Deputy Commissioner has also recorded that the appeal was heard in a nutshell manner. Law requires that if the appellant authority sees ground of doubt of the keba decision, he shall try the case De-novo. However, admittedly, the appellant authority has failed to follow the provisions of the law.

10. On the issue of not providing of any opportunity, having perused the record, I am not inclined to accept the submission of the learned counsel for the petitioner as the same is contrary to the record, on the face of the order the petitioner was heard and he has made his submission before the appellate authority. However, having considered that the appellant authority has failed to follow the requirement of the provisions of law in the present case, I am of the view that the impugned order cannot be sustained, as it clearly reflects from the impugned order that the matter was taken up in the summary manner. That apart, having considered that dispute between the parties requires to be determined by giving the parties an opportunity to adduce their evidences, I am of the view that the parties be relegated to the appropriate forum for proper determination/adjudication of the dispute in accordance with law.

11. Having considered above, though the submission of the learned counsel for the petitioner regarding opportunity of hearing is unacceptable, I am of the view that the dispute between the petitioner and the respondent requires to be determined by way of proper trial before the appropriate jurisdictional civil

Court. Accordingly, the impugned order dated 11.04.2022 passed by the Addl. Deputy Commissioner, Dumporijo, Upper Subansiri district in a case No. DMJ/LK-01/2019/121-124 dated 11.04.2022 is hereby interfered with and set aside. Liberty is granted to the respondent herein to approach the appropriate jurisdictional Civil Court against the keba decision held on 23.02.2021 as per the applicable provision.

12. It is made clear that the Civil Court whether appellant or original shall condone the delay in filing the appeal/petition, in view of the fact that the respondent had filed the appeal against the keba decision within time and the proceedings of the present revision petition has taken a considerable time before this Court for its final consideration for disposal.

13. With the above observation and direction, this criminal revision petition stands disposed of.

JUDGE

Comparing Assistant