

GAHC040007132023



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

Case No. : CRP/24/2023

Oni Darin
S/o Lt. Lego Darin,
R/o Village Mirku, PO/PS Pasighat, Dist. East Siang, Arunachal Pradesh, Presently
posted residing at Betkuchi Guwahati, Assam.
Phone No. 919612387131

VERSUS

Gandhi Darin
S/o Lt. Kinu Darin,
R/o Mirku Village, PO/PS Pasighat, East Siang District, Arunachal Pradesh.

Advocate for the Petitioner : Vijay Jamoh

Advocate for the Respondent : Nikita Danggen

BEFORE
HONBLE MR. JUSTICE KARDAK ETE

ORDER

Date : 06.08.2024

Heard Mr. V. Jamoh, learned counsel for the petitioner and also heard Ms. K. Chotten, learned counsel for the sole respondent.

By filing this civil revision petition, the petitioner has put to challenge the Kebang decision dated 30.09.2022, passed by Mirku village authority, on the ground that the issue/dispute has already been settled on 17.04.2011 by the same village authority.

The facts narrated is that the respondent has lodged an FIR before the Officer-in-Charge, Pasighat Police Station in the year 2011 alleging theft from his house in the absence of family members by breaking the lock of the box and had stolen his local ornamental beads. A case was lodged pursuant thereto being Pasighat P.S. Case No.41/2011 under Sections 454/380 of the IPC. Since the police could not trace out the thief and did not properly investigate the case, the respondent after consulting the local priest had decided to perform traditional chicken liver test, for which a complaint was made before the Mirku village authority for Kebang, alleging specifically that the petitioner is the person who has stolen his local ornamental beads.

Vide the Kebang decision dated 17.04.2011, it was directed to initiate Kebang for performing second ordeal. Thereafter, another Kebang was held on 29.05.2011, whereby while insisting for performance of traditional swearing ritual/Amki-Peki or Edung Yuki, which is a form of ordeal to put the hand in boiling water in order to show the truth which will be reflected that when disputed for something and the one gets burn is presumed to be guilty and finally decided that such a performance of ordeal should be before the president/secretary of the Gaon Bura of Bogong Banggo.

Having not been settled the issue by the earlier Kebang, the wife of the respondent has issued a notice to the petitioner for a Kebang. Accordingly, the village authority of Mirku village, on 30.09.2022 has held a Kebang. By the impugned Kebang decision, the members present in the Kebang have decided

that the petitioner had stolen the local ornamental beads and he should return the stolen local beads within a month. It has also been decided that in case the petitioner fails to return the stolen local beads within a month, a WRC field or a residential plot of land has to be given to the respondent by the petitioner. Being aggrieved of the impugned Kebang decision dated 30.09.2022, the present revision petition has been filed.

On consideration of the materials, particularly, the allegation and the Kebang proceedings, which had started way back in the year 2011 and finally culminated into the impugned Kebang decision dated 30.09.2022, this Court is of the considered view that no revision would lie, in view of the fact that there is remedy provided under the law for an appeal against the Kebang decision.

Although, the learned counsel for the petitioner has strenuously submitted that the petition has been filed under Article 227 of the Constitution of India, as this Court has the jurisdiction to entertain the present revision petition, this Court is afraid that such submission would even require any consideration, inasmuch as, the Hon'ble Supreme Court has observed that the jurisdiction under Article 227 of the Constitution of India cannot be exercised like a "Bull in a china shop" to correct all errors of Judgment of Court or Tribunal except for flagrant violation of fundamental principle of law.

Indisputably, there is a remedy of appeal provided under the law against the Kebang decision. Therefore, the filing of revision petition surpassing the remedy of statutory appeal provided under the law would not be maintainable. That apart, there is no conclusive decision by the village authority earlier other than the impugned Kebang decision dated 30.09.2022.

In view of the above, the present civil revision petition is not maintainable.

Accordingly, the civil revision petition stands dismissed. However, the petitioner may avail an appropriate remedy as may be permissible under the law.

JUDGE

Comparing Assistant