

GAHC040007782024

2024:GAU-AP:915



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

Case No. : CRP/25/2024

Rei Taha and 3 Ors

Son of Shri Rei Talo, permanent resident of Rei Village, PO Chambang, PS Palin, Kra
Daadi District, Arunachal Pradesh

2: Gokia Tayum

Age:

Occupation :

Son of Shri Gokia Tajeng
resident of Tudubath Village

PO Chambang

PS Palin

Kra Daadi District

Arunachal Pradesh

3: Tai Takum

Age:

Occupation :

Son of Shri Tai Tapang
resident of Yaba Village

PO and PS Palin

Kra Daadi District

Arunachal Pradesh

4: Rido Gagik

Age:

Occupation :

Son of Shri Rido Tado
resident of Langdung Village

PO and PS Palin

Kra Daadi District

Arunachal Pradesh

VERSUS

Biki Tania @ Tanya Higang and 18 Ors
Son of Late Biki Tacha, resident of Ganga Lake road, Itanagar, PO RK Mission, PS
Chimpu, Papumpare District, Arunachal Pradesh

2:Gokia Tame

Age: 0

Occupation :

Son of Shri Gokia Tugung

resident of Lorr Nallah

Near Biological Park (Zoo) Itanagar

PO RK Mission

PS Chimpu

Papumpare District

Arunachal Pradesh

3:Dohu Tabang Dui

Age: 0

Occupation :

Son of Shri Dohu apo

resident of C Sector Naharlagun

PO and PS Naharlagun

Papumpare District

Arunachal Pradesh

4:Biri Tanga

Age: 0

Occupation :

Son of Shri Biri Kagung

resident of Press Colony

Naharlagun

PO and PS Naharlagun

Papumpare District

Arunachal Pradesh

5:Nabam Dodum

Age: 0

Occupation :

President All Nyishi Student Union (ANSU) Tallang Hira Memorial Complex

Itanagar

PO and PS Itanagar

Papumpare District

Arunachal Pradesh

6:Gora Rikam Bhai

Age: 0

Occupation :

General Secretary

All Nyishi Student Union (ANSU)

Tallang Hira Memorial Complex
Itanagar
PO and PS Itanagar
Papumpare District
Arunachal Pradesh

7:Byabang Hapo Dui

Age: 0

Occupation :

Chief Election Commissioner 7th General Election of APCYGTSU 2023

C/o President of All Nyishi Student Union (ANSU)

Tallang Hira Memorial Complex

Itanagar

PO and PS Itanagar

Papumpare District

Arunachal Pradesh

8:Charu Majo

Age: 0

Occupation :

Chairman Delegate Registration Committee 7th General Election of APCYGTSU

2023 C/o President of All Nyishi Student Union (ANSU)

Tallang Hira Memorial Complex

Itanagar

PO and PS Itanagar

Papumpare District

Arunachal Pradesh

9:Goda Karu

Age: 0

Occupation :

Vice Chairman

Delegate Registration Committee 7th General Election of APCYGTSU 2023

C/o President ANSU

Tallang Hira Memorial Complex

Itanagar

PO and PS Itanagar

Papumpare District

Arunachal Pradesh

10:Biri H Baki

Age: 0

Occupation :

Member

Delegate Registration Committee 7th General Election of APCYGTSU 2023

C/o President ANSU

Tallang Hira Memorial Complex

Itanagar

PO and PS Itanagar
Papumpare District
Arunachal Pradesh

11:Tam Malo
Age: 0
Occupation :
Returning Officer
7th General Election of APCYGTSU 2023
C/o President ANSU
Tallang Hira Memorial Complex
Itanagar
PO and PS Itanagar
Papumpare District
Arunachal Pradesh

12:Lingdum Kioda
Age: 0
Occupation :
Deputy Returning Officer
7th General Election of APCYGTSU 2023
C/o President ANSU
Tallang Hira Memorial Complex
Itanagar
PO and PS Itanagar
Papumpare District
Arunachal Pradesh

13:Miss Techhi Ani
Age: 0
Occupation :
Presiding Officer
7th General Election of APCYGTSU 2023
C/o President ANSU
Tallang Hira Memorial Complex
Itanagar
PO and PS Itanagar
Papumpare District
Arunachal Pradesh

14:Kipa Rakesh
Age: 0
Occupation :
Polling Officer
7th General Election of APCYGTSU 2023
C/o President ANSU
Tallang Hira Memorial Complex
Itanagar

PO and PS Itanagar
Papumpare District
Arunachal Pradesh

15:Biri Takar
Age: 0
Occupation :
Assistant Polling Officer
7th General Election of APCYGTSU 2023
C/o President ANSU
Tallang Hira Memorial Complex
Itanagar
PO and PS Itanagar
Papumpare District
Arunachal Pradesh

16:Rahim Yangfo
Age: 0
Occupation :
Chairman Fact Finding Committee
C/o President ANSU
Tallang Hira Memorial Complex
Itanagar
PO and PS Itanagar
Papumpare District
Arunachal Pradesh

17:Licha Saha
Age: 0
Occupation :
Member Fact Finding Committee
C/o President ANSU
Tallang Hira Memorial Complex
Itanagar
PO and PS Itanagar
Papumpare District
Arunachal Pradesh

18:Nguri Purun
Age: 0
Occupation :
Member Fact Finding Committee
C/o President ANSU
Tallang Hira Memorial Complex
Itanagar
PO and PS Itanagar
Papumpare District
Arunachal Pradesh

19:S D Lodha
Age: 0
Occupation :
Legal Representative Fact Finding Committee
C/o President ANSU
Tallang Hira Memorial Complex
Itanagar
PO and PS Itanagar
Papumpare District
Arunachal Pradesh

Advocate for the Petitioner : Khoda Tama, Radhe Sumpa, Asha Likha, Tasso Dodung, Jambey Tsering, Sumit Chhetri, T Lampung

Advocate for the Respondent : Rajesh Sonar, M Basar, Binny Nyaruce, R Taku

**BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE**

Date of hearing : 25.09.2024

Date of Judgment: 04.10.2024

JUDGMENT & ORDER (CAV)

Heard Mr. K. Tama, learned counsel for the petitioners. Also heard Mr. R. Sonar, learned counsel for the respondent Nos. 1 to 4.

2. By filing this revision petition, the petitioners have assailed the competence of Civil Judge (Senior Division), Ziro, with reference to territorial as well as pecuniary jurisdiction in entertaining of the Title Suit being T.S. No. 19/2023 by the Civil Judge (Senior Division), Ziro, on the ground of violation of Section 14 of *the Arunachal Pradesh Civil Court Act, 2021* as the competent Court of Civil Judge (Junior Division), Palin, Kra Daadi District is available at Ziro. Petitioners have also challenged the order dated 26.03.2024 passed by the Civil Judge

(Senior Division), Ziro in T.S. No. 19/2023 and prays for return of T.S. No. 19/2023 for filing before the appropriate Civil Judge (Junior Division).

3. The case, in brief, is that the respondent Nos. 1, 2, 3 & 4/plaintiffs, have jointly filed a Title Suit being T. S. No. 19/2023 before the Civil Judge (Senior Division), Ziro, praying for declaration of right, title and interest for the post of President, General Secretary, Vice President and Assistant General Secretary of All Palin, Chambang, Yangte, Gangte and Tarak-Langda Students Union (hereinafter referred to as APCYGTSU) in terms of the election result declared on 16.09.2023 and for perpetual injunction against some of the defendants from interfering in the daily activities as the representatives of the APCYGTSU. The respondent Nos. 1 to 4 have also filed an interlocutory application being I.A. No. 26/2023 in the said Title Suit by invoking Order 39, Rule 1 and Section 151 of the CPC seeking temporary injunction by way of suspending the order dated 10.11.2023, issued by the President, All Nyishi Student Union (ANSU) for holding fresh election.

4. The pleaded case, as reflected in the plaint, is that the respondent Nos. 1 to 4/plaintiffs are duly elected President, General Secretary, Vice President and Assistant General Secretary of APCYGTSU in the 7th General Conference cum Election of APCYGTSU held from 15.09.2023 to 17.09.2023. The Fact Finding Committee constituted by the President, ANSU, had never summoned the respondent Nos. 1 to 4/plaintiffs and they were never given an opportunity to place their version, therefore, the report of Fact Finding Committee is illegal and the consequent order dated 10.11.2023 issued by the President, ANSU, for holding fresh election on the basis of the Fact Finding Committee report is without authority.

5. The petitioners (who are Defendants in the Title suit) are assailing the legality of assuming the jurisdiction and entertaining of the T.S. No. 19/2023 by the learned Civil Judge (Senior Division), Ziro. Vide order dated 29.02.2024, the learned Civil Judge (Senior Division), Ziro has stayed/suspended the fresh election order issued by the President, ANSU, dated 10.11.2023. The petitioners have filed FAO against the aforesaid order dated 29.02.2024 passed by the learned Civil Judge (Senior Division), Ziro, which is pending disposal before this Court.

6. Mr. K. Tama, learned counsel for the petitioners submits that the petitioners have jointly filed their written statement in the aforesaid Title Suit and have categorically raised objection by stating that the suit is undervalued and therefore, is not maintainable and proper court fees has not been paid by the plaintiffs (the respondent Nos. 1 to 4 herein). However, the said contention and objection of the petitioners were overlooked by the learned Civil Judge (Senior Division), Ziro, while acknowledging the written statement filed by the petitioners with regard to an objection of its assuming jurisdiction erroneously and have passed the order dated 29.02.2024 and fixed the next date on 26.03.2024 for settlement of issues and submission of list of documents. Therefore, he submits that the petitioners have raised their objection with regard to jurisdiction before the learned Civil Judge (Senior Division), Ziro, at the earliest possible opportunity by filing written statement. He submits that the learned Civil Judge (Senior Division), Ziro, by overlooking and ignoring the objection raised by the petitioners, has taken up the proceedings and passed the impugned order dated 26.03.2024.

7. Mr. K. Tama, learned counsel submits that the learned Civil Judge (Senior Division), Ziro, ought not to have taken up the Title Suit No. 19/2023, as the

jurisdictional Civil Judge (Junior Division), Palin, Kra Daadi was posted and was available at Ziro itself. Therefore, the learned Civil Judge (Senior Division), Ziro, has exceeded its jurisdiction contrary to the provisions prescribed under section 14 of *the Arunachal Pradesh Civil Court Act, 2021*.

8. Mr. K. Tama, learned counsel submits that the learned Civil Judge (Senior Division), Ziro, has exceeded its power and encroached upon the territorial and pecuniary jurisdiction of the learned Civil Judge (Junior Division), Palin, Kra Daadi District and has erroneously taken up the T. S. No. 19/2023 and passed the impugned order dated 26.03.2024. Therefore, he submits that the impugned order dated 26.03.2024 may be set aside and quashed and the T. S. No. 19/2023 may be terminated and directed to be returned to the plaintiffs for filing before the appropriate jurisdictional Civil Court (Junior Division), Palin, Kra Daadi District.

9. In support of his submissions, Mr. K. Tama, learned counsel for the petitioners, has placed reliance on the judgments of the Hon'ble Supreme Court as well as the High Court, which are as under:

(i). **S. Lianbuangi vs. Lalmuankimi & Ors.**, reported in **2018 (3) GLT 207**.

(ii). **Nandita Bose vs. Ratanlal Nahata**, reported in **(1987) 3 SCC 705**.

(iii). **Dahiben vs. Arvindbhai Kalyanji Bhanusali (Gajra) dead through legal representatives & Ors.**, reported in **(2020) 7 SCC 366**.

(iv). **Exl Careers & Anr vs. Frankfinn Aviation Service Pvt. Ltd.**, reported in **(2020) 12 SCC 667**.

10. Mr. R. Sonar, learned counsel for the respondents, on the other hand, submits that the Civil Judge (Senior Division), Ziro, has territorial jurisdiction to entertain and try the T. S. No. 19/2023, although it may lack pecuniary

jurisdiction, inasmuch as by notification dated 10.07.2023, the learned Civil Judge (Senior Division), Ziro has been conferred with the territorial jurisdiction over Lower Subansiri, Kurung Kumey, Kra Daadi and Kamle Districts. Therefore, the contention of the petitioners is misconceived and contrary to the materials on record. He submits that as per Section 21 (1) & (2) of the CPC, no objection as to the place of suing or with reference to the pecuniary limits of its jurisdiction shall be allowed by any appellate or revisional court unless such objection was taken in the court of first instance at the earliest possible opportunity and in all cases where issues are settled, at or before such settlement, and unless there has been any consequent failure of justice. He submits that in the present case, it is evident from the record that the petitioners have never raised any objection regarding the territorial or pecuniary jurisdiction before the learned Civil Judge (Senior Division), Ziro, over the matter by filing appropriate application in terms of Order VII, Rule 11 of CPC at any point of time. The petitioners have for the first time raised the issue of territorial or pecuniary jurisdiction of the learned Civil Judge (Senior Division), Ziro before this Court. Therefore, raising of territorial or pecuniary jurisdiction for the first time before this Court is legally barred and untenable. Mr. Sonar, learned counsel submits that the order dated 26.03.2024 being an interlocutory order, revision petition does not lie against such interlocutory order. Therefore, the present petition is not maintainable

11. Mr. Sonar, learned counsel for the respondents submits that it is a trite law that when there is a statutory alternative remedy available, a revision petition is not maintainable unless the alternative remedy is exhausted. The petitioners had the statutory alternative remedy under Order VII Rule 11 of the CPC to raise the plea of territorial as well as pecuniary jurisdiction of the learned Civil

Judge (Senior Division), Ziro to entertain the T. S. No. 19/2023 but they have failed to do so. Therefore, present petition is not maintainable.

12. Mr. Sonar submits that in the absence of objection *qua* the territorial and pecuniary jurisdiction of the learned Civil Judge (Senior Division), Ziro by the petitioners, by filing appropriate application, no occasion has arisen for the Civil Judge (Senior Division), Ziro, to pass order deciding the issue of territorial or pecuniary jurisdiction. He further submits that the present revision petition is not maintainable in law as per the proviso of Section 115 of the CPC, wherein, it is provided that the High Court shall not, under the section, vary or reverse any order made, or any order deciding an issue, in the course of suit or other proceeding, except where the order, if it had been made in favour of the party applying for revision would have finally disposed of the suit or other proceedings.

13. He further submits that as per Order VII Rule 10 of the CPC, a civil suit cannot be dismissed either by the Trial Court or the Court of Appeal or Revision on the ground of lack of pecuniary jurisdiction. The concerned Court should return the plaint to the plaintiff for filing in the proper Court. Therefore, the present petition praying for quashing the T. S. No. 19/2023 is not maintainable in law.

14. In support of his submission, Mr. Sonar has placed reliance on the judgment of the Hon'ble Supreme Court as well as High Court, which are as under:

(i). **K. P. Ranga Rao vs. K. V. Venkatesham and Ors.**, reported in **(2015) 13 SCC 514.**

(ii). **Om Prakash Agarwal & Ors. vs. Vishan Dayal Rajpoot &Anr.**, reported in **(2019) 14 SCC 526.**

- (iii). **S. Lianbuangi vs. Lalmuankimi & Ors.**, reported in **(2018) 3 GLT 207**:
- (iv). **Monoranjan Sutradhar vs. Subhasini & Ors.** reported in **2000 (2) GLR 287**.
- (v). **Varsha Boilers Pvt. Ltd. Bombay Vs. Yeotmal District Co-operative Cotton Seed Processing and Allied Industries Factory Ltd.**, reported in **1979 Mh. L. J.**
- (vi). **Hans Raj vs. Ludam Mari & Anr.**, reported in **1989 0 Supreme (J&K) 34**:
- (vii). **Zosangilana vs. Vanlalreme**, reported in **2016 (3) GLT 782**.
- (viii). **Surya Dev Rai vs. Ram Chander Rai & Ors.**, reported in **(2003) 6 SCC 675**.
- (ix). **Miss. Maneck Gustedji Burjarji vs. Sarafazali Nawabali Mirza**, reported in **1977 (1) SCC 227**.

15. I have considered the submissions advanced by the learned counsels for the parties and perused the materials placed on record.

16. The question for consideration in this present proceeding is as to whether the learned Civil Judge (Senior Division), Ziro, has the territorial as well as pecuniary jurisdiction to entertain the Title Suit in view of the provisions of Sections 14 and 15 (3) of the Arunachal Pradesh Civil Court Act, 2021. And/or as to whether question raised above is barred under the law.

17. The respondent Nos. 1 to 4 have filed a Title Suit, which has been registered as T.S. No. 19/2023. The petitioners herein, are the defendants in the Title Suit. Vide order dated 29.02.2024, the learned Civil Judge (Senior Division), Ziro, has passed an injunction order in favour of the respondent Nos. 1 to 4. The learned Civil Judge (Senior Division), Ziro, has entertained the plaint of the plaintiffs/respondent Nos. 1 to 4 by assuming the jurisdiction as a

competent Civil Court.

18. To analyse and appreciate the question, this Court deem it appropriate to refer to the relevant provisions of law and would consider appropriately.

19. Section 21 (1) & (2) of the Code of Civil Procedure, 1908, provides that no objection as to the place of suing and as to the competence of a Court with reference to the pecuniary limits of its jurisdiction shall be allowed by any Appellate or Revisional Court unless such objection was taken in the Court of first instance at the earliest possible opportunity and in all cases where issues are settled at or before such settlement, and unless there has been a consequent failure of justice.

20. As held by the Hon'ble Supreme Court, Section 21 will apply in three situations: the first situation refers to the place of suing; the second situation refers to pecuniary limits of the court's jurisdiction; and the third refers to local limits of the court's jurisdiction. In each of these situations an appellate court or revisional court shall not allow an objection to the place of suing and as to the competence of a Court with reference to the pecuniary limits of its jurisdiction unless such objection was taken in the court of first instance at the earliest possible opportunity and in all cases where issues are settled at or before such settlement. In other words, an objection as to place of suing and as to the competence of a Court with reference to the pecuniary limits of its jurisdiction cannot be allowed unless such objection was taken in the court of first instance at the earliest possible opportunity and in all cases where issues are settled at or before such settlement and unless there has been a consequent failure of justice.

21. The law is well settled that an objection regarding territorial and

pecuniary jurisdiction has to be taken at the earliest possible opportunity and in any case at or before settlement of the issues and if such objection is not taken at the earliest, it cannot be allowed to be taken at the subsequent stage.

22. In the present case, the petitioners have not raised the objection as to the competence of a Court with reference to the pecuniary limits of its jurisdiction in clear terms, although they have raised the maintainability by filing their written statement in the above Title Suit, by stating that the suit is undervalued and therefore, the said suit is not maintainable in the Court of the learned Civil Judge (Senior Division), Ziro. Thus, it is seen that the petitioners have not raised an objection as to the competence of a Court with reference to the pecuniary limits of its jurisdiction in the court of Civil Judge (Sr. Division) at the earliest possible opportunity and before the issues are settled and no objection as to place of suing has also been raised except to the valuation.

23. It is true that the institution of a suit in a court of higher grade which ought to have been instituted in the court of lower grade, is only an irregularity in procedure and does not alter the jurisdiction of the court. The plaintiff may bring its suit in the court of lower grade competent to try it, and the provision is made for the benefit of the court of the higher grade. Under such circumstances, it cannot be said that the court of higher grade had no jurisdiction to try the suit, however, as a matter of policy and procedure ought to have been filed in the court of lowest grade and the higher court may return the same for its presentation in the proper court. However, if a suit is instituted in the court of lower grade having no jurisdiction the proceedings shall be nullity as being without jurisdiction and material prejudice may be assumed to have been caused to the concerned party.

24. Order VII, Rule 10 of the Code of Civil Procedure, 1908, pertains to return

of plaint which provides that subject to the provisions of rule 10A, the plaint shall at any stage of the suit be returned to be presented to the Court in which the suit should have been instituted. On returning a plaint, the Judge shall endorse thereon the date of its presentation and return, the name of the party presenting it, and a brief statement of the reasons for returning it. In the explanation, it provides that for the removal of doubts, it declared that a Court of appeal or revision may direct, after setting aside the decree passed in a suit, the return of the plaint under the sub-rule.

25. Section 115 of the Code of Civil Procedure, 1908, provides that the High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears-(a) to have exercised a jurisdiction not vested in it by law, or(b) to have failed to exercise a jurisdiction so vested, or(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity, the High Court may make such order in the case as it thinks fit. Provided that the High Court shall not, under this section, vary or reverse any order made, or any order deciding an issue, in the course of a suit or other proceeding, except where the order, if it had been made in favour of the party applying for revision, would have finally disposed of the suit or other proceedings. The High Court shall not, under this section, vary or reverse any decree or order against which an appeal lies either to the High Court or to any Court subordinate thereto. A revision shall not operate as a stay of suit or other proceeding before the Court except where such suit or other proceeding is stayed by the High Court. In the explanation, it provides that in this section the expression "any case which has been decided" includes any order made, or any order deciding an issue, in the course of a suit or other proceeding.

26. Section 151 of the Code of Civil Procedure, 1908, is the Saving of inherent powers of Court which provides that nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.

27. Sections 14 and 15 (3) of the Arunachal Pradesh Civil Court Act, 2021 provides as under:

"14. Jurisdiction of a Court of Civil Judge (Junior Division): The jurisdiction of a Court of Civil Judge (Junior Division) shall extend to all original suits and proceedings of a civil nature, and subject to the provisions of the Code of Civil Procedure, 1908 or any other law for the time being in force, the pecuniary jurisdiction of the Court of Civil Judge (Junior Division) shall extend to all Civil suits which do not exceed rupees ten lakhs or as may be prescribed by the Government in consultation with the High Court."

15. Appeals etc.:

(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.

28. Reading of the above provisions of the Arunachal Pradesh Civil Court Act, 2021, clearly reflects that the jurisdiction of a Court of Civil Judge (Junior Division) shall extend to all original suits and proceedings of a civil nature, and subject to the provisions of the Code of Civil Procedure, 1908 or any other law for the time being in force, the pecuniary jurisdiction of the Court of Civil Judge (Junior Division) shall extend to all Civil suits which do not exceed rupees ten lakhs. 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 lie to the Court of Civil Judge (Senior Division). Thus, in my considered opinion, since the suit is valued at Rs. 5 lakhs and the Civil Judge (Senior Division) being appellate court of Civil Judge (Junior Division), the suit would lie before the Civil Judge (Junior

Division) in terms of the section 14 of the Arunachal Pradesh Civil Court Act, 2021.

29. The respondents Nos. 1 to 4 valued the suit for the purpose of pecuniary jurisdiction at Rs. 5,00,000/- (Rupees Five Lakhs), which is reflected in the plaint. The petitioners by filing their written statement being the defendant Nos. 12, 13, 14 & 15 in the Title Suit, have raised an objection by stating that the suit is undervalued and therefore, the said suit is not maintainable in the Court of the learned Civil Judge (Senior Division), Ziro and proper court fees have not been paid by the plaintiffs. The petitioners have also raised that the suit is barred as the plaintiff did not seek the leave of the court to file a representative suit under Order 1 Rule 8 of the CPC.

30. On perusal of the written statement filed by the petitioners, it is seen that the petitioners have not raised an objection as to the competence of a Court with reference to the pecuniary limits of its jurisdiction in clear terms. However, in view of Sections 14 and 15 (3) of the Arunachal Pradesh Civil Court Act, 2021, wherein it is provided that the jurisdiction of a Court of Civil Judge (Junior Division) shall extend to all original suits and proceedings of a civil nature, and subject to the provisions of the Code of Civil Procedure, 1908 or any other law for the time being in force, the pecuniary jurisdiction of the Court of Civil Judge (Junior Division) shall extend to all Civil suits which do not exceed rupees ten lakhs and 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 lie to the Court of Civil Judge (Senior Division), present title suit would lie before the Court of Civil Judge (Junior Division). Therefore, the learned Civil Judge (Senior Division), Ziro, in my view, ought to have returned the plaint for filing before the

Court of Civil Judge (Junior Division).

31. The principles which regulate the pecuniary jurisdiction of civil courts are well settled by the Hon'ble Supreme Court. It has held that ordinarily, the valuation of a suit depends upon the reliefs claimed therein and the plaintiff's valuation in his plaint determines the court in which it can be presented. It is also true that the plaintiff cannot invoke the jurisdiction of a court by either grossly over-valuing or grossly under-valuing a suit. The court always has the jurisdiction to prevent the abuse of the process of law. Under Rule 10 of Order 7 of the Code the plaint can be returned at any stage of the suit for presentation to the court in which the suit should have been instituted. If the court where the suit is instituted, is of the view that it has no jurisdiction, the plaint is to be returned in view of the provisions of Order 7 Rule 10 CPC and the plaintiff can present it before the court having competent jurisdiction.

32. Regard being had to the maintainability of the present petition, it would suffice to refer to the judgement of the Hon'ble Supreme Court in the case of **Surya Dev Rai vs. Ram Chander Rai & Ors.**, reported in **(2003) 6 SCC 675**, which is reproduced herein under:-

"38. Such like matters frequently arise before the High Courts. We sum up our conclusions in a nutshell, even at the risk of repetition and state the same as hereunder:

(1) Amendment by Act 46 of 1999 with effect from 1-7-2002 in Section 115 of the Code of Civil Procedure cannot and does not affect in any manner the jurisdiction of the High Court under Articles 226 and 227 of the Constitution.

(2) Interlocutory orders, passed by the courts subordinate to the High Court, against which remedy of revision has been excluded by CPC Amendment Act 46 of 1999 are nevertheless open to challenge in, and continue to be subject to, certiorari and supervisory jurisdiction of the High Court.

(3) Certiorari, under Article 226 of the Constitution, is issued for correcting

gross errors of jurisdiction i.e. when a subordinate court is found to have acted (i) without jurisdiction by assuming jurisdiction where there exists none, or (ii) in excess of its jurisdiction by overstepping or crossing the limits of jurisdiction, or (iii) acting in flagrant disregard of law or the rules of procedure or acting in violation of principles of natural justice where there is no procedure specified, and thereby occasioning failure of justice.

(4) Supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When a subordinate court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction.

(5) Be it a writ of certiorari or the exercise of supervisory jurisdiction, none is available to correct mere errors of fact or of law unless the following requirements are satisfied: (i) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (ii) a grave injustice or gross failure of justice has occasioned thereby.

(6) A patent error is an error which is self-evident i.e. which can be perceived or demonstrated without involving into any lengthy or complicated argument or a long-drawn process of reasoning. Where two inferences are reasonably possible and the subordinate court has chosen to take one view, the error cannot be called gross or patent.

(7) The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion. Care, caution and circumspection need to be exercised, when any of the abovesaid two jurisdictions is sought to be invoked during the pendency of any suit or proceedings in a subordinate court and the error though calling for correction is yet capable of being corrected at the conclusion of the proceedings in an appeal or revision preferred thereagainst and entertaining a petition invoking certiorari or supervisory jurisdiction of the High Court would obstruct the smooth flow and/or early disposal of the suit or proceedings. The High Court may feel inclined to intervene where the error is such, as, if not corrected at that very moment, may become incapable of correction at a later stage and refusal to intervene would result in travesty of justice or where such refusal itself would result in prolonging of the lis.

(8) The High Court in exercise of certiorari or supervisory jurisdiction will not convert itself into a court of appeal and indulge in reappreciation or evaluation of evidence or correct errors in drawing inferences or correct errors of mere formal or technical character.

(9) In practice, the parameters for exercising jurisdiction to issue a writ of certiorari and those calling for exercise of supervisory jurisdiction are almost similar and the width of jurisdiction exercised by the High Courts in India unlike English courts has almost obliterated the distinction between the two jurisdictions. While exercising jurisdiction to issue a writ of certiorari, the High Court may annul or set aside the act, order or proceedings of the subordinate courts but cannot substitute its own decision in place thereof. In exercise of supervisory jurisdiction the High Court may not only give suitable directions so as to guide the subordinate court as to the manner in which it would act or proceed thereafter or afresh, the High Court may in appropriate cases itself make an order in supersession or substitution of the order of the subordinate court as the court should have made in the facts and circumstances of the case.

39. Though we have tried to lay down broad principles and working rules, the fact remains that the parameters for exercise of jurisdiction under Articles 226 or 227 of the Constitution cannot be tied down in a strait-jacket formula or rigid rules. Not less than often, the High Court would be faced with a dilemma. If it intervenes in pending proceedings there is bound to be delay in termination of proceedings. If it does not intervene, the error of the moment may earn immunity from correction. The facts and circumstances of a given case may make it more appropriate for the High Court to exercise self-restraint and not to intervene because the error of jurisdiction though committed is yet capable of being taken care of and corrected at a later stage and the wrong done, if any, would be set right and rights and equities adjusted in appeal or revision preferred at the conclusion of the proceedings. But there may be cases where "a stitch in time would save nine". At the end, we may sum up by saying that the power is there but the exercise is discretionary which will be governed solely by the dictates of judicial conscience enriched by judicial experience and practical wisdom of the judge."

33. In view of the above settled proposition by the Hon'ble Supreme Court and having considered the facts of the present case, this court is of the view that the present petition is maintainable as this court is unable to concur with the submission of learned counsel for the respondents on maintainability and

accordingly, submission is rejected.

34. This court has perused the case laws relied on by the learned counsel for the parties. Having perused and considered, I am of the view that same are settled propositions of law which requires no further consideration or rendered on the facts of those cases which would not have universal application except the settled law on the applicability of the relevant provisions of law to which this court has referred to and relied upon.

35. In view of what has been discussed herein above and in the light of the law settled by the Hon'ble Supreme Court coupled with the relevant provisions of law as considered herein above, I am of the considered view that it would only be appropriate for the suit to be presented before the Court of learned Civil Judge (Junior Division) concerned. The learned Civil Judge (Senior Division) ought to have returned the plaint to the plaintiffs/respondents No. 1 to 4 for approaching the Court of Civil Judge (Junior Division) as the Arunachal Pradesh Civil Courts Act, 2021 has laid down the pecuniary jurisdiction of a Court of Civil Judge (Junior Division) to a subject matter whose value is not exceeding Rs. 10 lakhs, although the Court of Civil Judge (Senior Division) would not be *Corum Non-Judice*. Thus, I am of the view that since the Civil Courts Act has laid down the pecuniary jurisdiction of a Court of learned Civil Judge (Junior Division) to a subject matter whose value is not exceeding Rs. 10 lakhs, it would be appropriate for the learned Civil Judge (Senior Division) to return the Title suit No. 19/2024 to be instituted before the Court of learned Civil Judge (Junior Division).

36. In the result, this civil revision petition succeeds. The impugned order dated 26.03.2024 is hereby set aside. However, if there is no Civil Judge (Junior Division), there would not be a bar for the learned Civil Judge (Senior Division)

to proceed with the matter if the territorial jurisdiction is conferred on the Civil Judge (Senior Division) in accordance with law.

37. Civil Revision Petition is disposed of.

JUDGE

Comparing Assistant