

GAHC040010162023



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

Case No. : CRP/40/2023

Mating Kanu
resident of village Komp, PO.PS Yazali, Lower Subansiri District, Arunachal Pradesh
791120. Mobile No. 8132897712

VERSUS

The Deputy Commissioner and 3 Ors.
Lower Subansiri District, Arunachal Pradesh 791120 2:Nabam Bida
Age: 0
Occupation :
President All Ziro II Gaon Burah and Buris Association
HQ Yachuli
Lower Subansiri District
Arunachal Pradesh.

3:Chukhu Teli
Age: 0
Occupation :
General Secretary All Ziro II Gaon Burah and Buris Association
HQ Yachuli
Lower Subansiri District
Arunachal Pradesh. 791120

4:Tao Ror
Age: 0
Occupation :
S/o Shri Tao Tedi
resident of village Yazali
PO/PS Yazali
Lower Subansiri District
Arunachal Pradesh. 7912

Advocate for the Petitioner : Pritam Taffo, Eho Menjo, Minter Karbak

Advocate for the Respondent : GA (AP),

**BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG**

ORDER

Date : 04-11-2024

Heard Mr. P. Taffo, learned counsel for the petitioner. Also heard Ms T. Wangmo, learned Government Advocate for the respondent No.1. None appears for the respondents No. 2, 3 and 4, despite of notice being served upon and received by them.

2. This is an application filed under Section 227 of the Constitution of the India praying for quashing and setting aside of the impugned order dated 03.07.2023 and 2nd notice dated 18.07.2023 issued by the All Ziro-II Goan Burah and Goan Buris Association (for short GB Association) against the petitioner.

3. The brief facts of the case is that there was a money dispute arose between the petitioner and the respondent No.4 in relation to the business transaction amounting to Rs.5,00,000/-(Rupees five lakhs only). Thereafter, both the petitioner and the respondent No.4 mutually agreed to resolve their dispute amicably and executed a settlement agreement on 13.08.2022. The said agreement stipulated that the petitioner shall repay the loan amount of Rs.5,00,000/-(Rupees five lakhs only) to the respondent No.4 without interest on or before 31.12.2022. It further stipulated that the respondent No.4 within a

period of 7(seven) days shall remove the fence and notice board that he had erected from the land of the petitioner. Furthermore, it also contained that, in the event of the petitioner's failure to repay the loan amount, the guarantor of the petitioners, namely, Shri Likha Kan and Shir Neelam Tago shall be liable to repay the loan amount. However, the petitioner could not repay the loan amount within the stipulated time. Therefore, the penalty of Rs.50,000/-(Rupees fifty thousand only) was imposed by the arbitrators upon the petitioners and accordingly, the said sum of Rs.5,00,000/-(Rupees five lakhs only) along with the penalty amount of Rs.50,000/-(Rupees fifty thousand only) was paid to the respondent No.4 by the petitioner vide RTGS on 22.12.2022, in the bank account of the respondent No.4. Thus, the matter between the petitioner and the respondent No.4 was finally settled.

4. However, after about 8 months of such repayment made by the petitioner to the respondent No.4, the petitioner received the impugned order dated 03.07.2024, and subsequently, the notice dated 18.07.2023 issued by the President and the Secretary of the GBs Association containing that a complaint has been received from the respondent No.4, and directed the petitioner to appear before the arbitrator appointed by the GBs Association on 13.07.2023 at 10:00 am at General Ground, Yachuli to decide the money lending case. Subsequently, the President and the Secretary GBs Association had issued a second notice on 18.07.2023, directing the petitioner to appear before the arbitrator appointed by the GBs Association on 03.08.2023 at 10:00 am at Yachuli ground.

5. The learned counsel for the petitioner submits that the dispute between the petitioner and the respondent No.4 has already been settled. And if the respondent No.4 is aggrieved by the said settlement, it is opened for him to approach the civil court having jurisdiction to try the case. It is further submitted that the GBs Association has no power and jurisdiction to try and decide the civil suit as per Assam Frontier (Administration of Justice) Regulation, 1945 as amended from time to time and the Arunachal Pradesh Civil Court's Act, 2023, inasmuch as they are not the customary court.

6. However, in the instant case, the President and the Secretary of the GBs Association has entertained the complaint lodged by the respondent No.4 and proceeded for decision by issuing the impugned order and 2nd notice to the petitioner without any authority. It is submitted that the association called as the All Yachuli Gaon Burah and Gaon Buris Association has no power to sit over and decide the civil dispute under the Assam Frontier (Administration of Justice) Regulation, 1945 as amended from time to time and the Arunachal Pradesh Civil Court's Act, 2023. Thus, the president and the secretary of the All Yachuli Gaon Burah and Gaon Buris Association has exceeded the jurisdiction not vested to it. Hence, the petitioner preferred this Civil Revision and prays for setting aside and quashing of the impugned order dated 03.07.2023 and 2nd notice dated 18.07.2023, issued by the GBs Association against the petitioner.

7. Ms T. Wangmo, learned Government Advocate appearing on

behalf of the respondent No.1 has fairly submitted that the GBs Association does not have the civil power to decide the civil suit as they are not recognised as a customary court within the meaning of the customary court as per the Arunachal Pradesh Civil Court's Act, 2023.

8. Heard both the learned counsels for the parties and considered the submission of the parties.

9. Upon consideration, it appears that the respondent No.4 has made a complaint before the president of All Yachuli Gaon Burah and Gaon Buris Association. Upon receipt of the complaint, the president and the secretary of the GBs Association has passed the impugned order and also issued 2nd notice to the petitioner directing him to appear before the arbitrators. The GBs Association have no power and jurisdiction to sit over and decide the civil suit as they are not customary court within the meaning of customary Court under the Arunachal Pradesh Civil Court's Act, 2023. Under the said Act only the customary Court by whatever name called and the Civil Court have the power to decide the civil suit/complaint as the case may be. But in the instant case, the GBs Association has proceeded and passed the impugned order and 2nd notice to the petitioner and directed him to appear before the arbitrators appointed by them to decide the money suit without any authority and jurisdiction.

10. In view of the provision of the Act which confers power only to

the civil Court to decide the civil suit and the Customary Court to entertain complaint and not to the Gaon Burah and Gaon Buris Association, and as agreed upon by the parties, I propose to dispose of this matter.

11. Accordingly, for the reason as discussed above, the impugned order dated 03.07.2023 and the 2nd notice dated 18.07.2023, issued by the President and the Secretary of the All Ziro-II Goan Burah and Goan Buris Association against the petitioner, is hereby set aside and quashed.

12. With the above observation, this Civil Revision petition stands allowed and disposed of.

JUDGE

Comparing Assistant