



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

Case No. : CRP/42/2023

Jumge Kamki
S/o Lt. Horjum Kamki,
Village Dego Kamki, PO/PS Khamba, District West Siang, Arunachal Pradesh.
Phone No. 08131851240

VERSUS

Modo Kamki
S/o Lt. Hormo Kamki,
PO/PS Khamba, West Siang District, Arunachal Pradesh.

Advocate for the Petitioner : T T Tara

Advocate for the Respondent : Rintu Saikia

BEFORE
HONBLE MR. JUSTICE KARDAK ETE

ORDER

Date : 14.08.2024

Heard Mr. T. T. Tara, learned counsel for the petitioner and also heard Mr. L. Nochi, learned counsel for the respondent.

2. By filing this civil revision petition, the petitioner has assailed the order dated 05.10.2017, passed by the Deputy Commissioner, West Siang District, Aalo, whereby the Deputy Commissioner has upheld the decision of the Additional Deputy Commissioner, Kamba, dated 27.12.2013, wherein, by basing on the Keba decision dated 02.09.1990, the decision which was in favour of the respondent, the compensation amount was held to be entitled to be paid to the respondent.

3. Shorn of unnecessary facts, the disputes relates to a plot of land at Kipo-Dego area at Kamba. The land in question, according to the petitioner was given to him in terms of the Keba decision dated 10.12.1987, which has been duly approved by the Circle Officer on 08.01.1988. It is contended that in the year 2012, while the Additional Deputy Commissioner, Kamba was carrying out a survey for land acquisition compensation to the affected land owners, the respondent has raised a dispute that the area measuring appx. 177 Sq. feet belongs to him as per the Keba decision dated 02.09.1990. Due to such claim by the respondent, the petitioner made a complaint to the Additional Deputy Commissioner, Kamba. On the complaint of the petitioner, the Additional Deputy Commissioner, Kamba after hearing the parties and the village authorities has passed the order dated 27.12.2013 against the petitioner on the basis of the Keba dated 02.09.1990, which was in favour of the respondent.

4. On the perusal of the order of the Additional Deputy Commissioner dated 27.12.2013, the Additional Deputy Commissioner has relied on the Keba decision

dated 02.09.1990 and on that basis, it has been decided that since the respondent is the owner of the land, the compensation was decided to be paid to the respondent.

5. Against the order dated 27.12.2013, passed by the Additional Deputy Commissioner, the petitioner has filed an appeal before the Deputy Commissioner, West Siang District, Aalo. The Deputy Commissioner vide the impugned order dated 05.10.2017 has upheld the decision of the Addl. Deputy Commissioner, Kamba and dismissed the appeal. Hence, this present civil revision petition.

6. The issue, in a nutshell, relates to title and ownership of the said plot of area at Kipo-Dego area, where both the parties claimed on the basis of both the Keba decisions dated 10.12.1987 and 02.09.1990.

7. On perusal of the materials on record, including the order dated 27.12.2013, passed by the Addl. Deputy Commissioner, Kamba and the impugned order dated 05.10.2017, passed by the Deputy Commissioner, West Siang District, Aalo goes to show that the petitioner has wrongly approached the Deputy Commissioner as under the relevant provision, there would not be an appeal before the Deputy Commissioner against the order(s)/decision(s) of the Addl. Deputy Commissioner. It is also reflected that the decision of the Addl. Deputy Commissioner, Kamba strictly cannot be termed to be a decision with regard to the title and ownership of the land, but a decision based on the Keba decision and thereafter, the compensation was awarded to the respondent as in

his view the Keba has decided that the land belongs to the respondent. It is also noticed that there is no proceedings for land acquisition strictly in terms of the *Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013*. However, since the appeal was filed by the petitioner before the wrong forum, the impugned order is nullity as the Deputy Commissioner has passed the order without any jurisdiction.

8. At this stage, the learned counsels for the parties fairly submits that the petitioner has wrongly approached the Deputy Commissioner in violation of the provision of law, the order impugned in this petition dated 05.10.2017, passed by the Deputy Commissioner is a nullity as the Deputy Commissioner would not have any jurisdiction.

9. The parties also have consented and submitted that since the order of the learned Deputy Commissioner is nullity, the parties may be relegated to appropriate forum so that the determination can be made by the jurisdictional authority or Court in accordance with law.

10. Having considered the submissions of the learned counsels for the parties and also considering that the Deputy Commissioner has no jurisdiction as no appeal lies against the order of the Addl. Deputy Commissioner under the law, without going into the merit, I am of the view that the present civil revision petition can be closed and disposed of, by holding that the impugned order dated 05.10.2017, passed by the Deputy Commissioner, Kamba is nullity under the law. Accordingly, the present civil revision petition is hereby disposed of.

11. However, the petitioner is at liberty to approach the appropriate jurisdictional Court against the order of the Additional Deputy Commissioner, Kamba as may be permissible under the law.

JUDGE

Comparing Assistant