



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

Case No. : CRP/38/2024

Gyamar Takar @ Bharat
Son of Late Gyamar Tajik, resident of Village Yupia -1,
PO and PS Doimukh, Papumpare District, Arunachal Pradesh.

VERSUS

Tana Serbi and Anr
resident of Midpu, PO and PS Doimukh, representing Hyer Habia Catchment areas
Welfare Committee as President of the Committee resident of Doimukh, Po and PS
Doimukh, Papumpare District, Arunachal Pradesh 791112
2:Tana Lania @ Tana Sutum
Age: 0
Occupation :
representing Hyer Habia Catchment areas Welfare Committee s General Secretary of
the Committee resident of Doimukh
PO and PS Doimukh
Papumpare District
Arunachal Pradesh 79111

Advocate for the Petitioner : Uttam Deka, Maji Dui,Nannu Yubi,Tame Rimi,N Tania,M
Lego,Chorpok Modi

Advocate for the Respondent : ,

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 20.09.2024

Heard Mr. C. Modi, learned counsel for the petitioner.

2. By filing this Civil Revision Petition, under Article 226 of the Constitution of India, *read with* Section 115 of the Code of Civil Procedure, 1908, the petitioner has assailed the order dated 21.08.2024, passed by the learned Civil Judge (Senior Division), Yupia in Appeal No.01/2023.

3. By the said impugned order, while partially allowing the appeal in respect of the orders dated 16.10.2022 and 21.07.2019, passed by the Customary Court and thereby, setting aside the said 2(two) orders dated 16.10.2022 and 21.07.2019, the order dated 26.10.2022, passed by the Sub-Divisional Officer, Doimukh was also set aside and it was directed that the case be proceeded *de novo*.

4. The learned counsel for the petitioner submits that the petitioner is not aggrieved by the interference with the order dated 16.10.2022, passed by the Customary Court or by interference with the order dated 26.10.2022, passed by the Sub-Divisional Officer, Doimukh, the petitioner is only aggrieved by interference with the settlement order dated 21.07.2019, on the ground that the settlement order has attained finality.

5. The learned counsel for the petitioner has submitted that the said settlement dated 21.07.2019 was passed in a proceeding before the Customary Court, and unless an appeal is filed against the said order, the learned Civil Judge (Senior Division), Yupia had no jurisdiction, right or authority to interfere

with the said settlement order dated 21.07.2019, which was not the subject matter of determination in the proceedings of Civil Appeal No.01/2023.

6. We have examined the materials available on record.

7. It is observed that as per the contents of the Deed of Case Settlement, which was held in a meeting on 21.07.2019, the said meeting was held to settle the long pending cases between the Yupia villagers on one side and the petitioner, namely, Shri Gyamar Takar @ Bharat on the other side regarding land dispute at Totup Hapa area ad measuring 1,47,000 Sq.Mtrs located at about 17 to 20 Km from Doimukh Range, located at $27^{\circ} 11' 00'' 6''$ towards North and $93^{\circ} 43' 11''$ towards East, which falls under the Yupia village jurisdiction. The house present in the meeting have taken note of the projection that maximum majorities of Yupia villagers had already put their signatures in the NOC in favour of the petitioner's ownership of the developed area in Totup Hapa and he was in possessions since the year 2004 and accordingly, it was approved that he is the owner of the said area and is eligible to obtain Land Possession Certificate (LPC). The said settlement was signed by 4(four) village authorities (Gaon Burahs) and 9(nine) members of the parties present, including the petitioner and the same was counter signed by an Executive Magistrate on 23.07.2019.

8. The order of the Sub-Divisional Officer, Doimukh, dated 26.09.2022, on receipt of remand of the matter, pursuant to the order of this Court dated 26.08.2022, passed in I.A(C) No.02/2022, took into consideration the settlement Deed dated 21.07.2019, considered the projection of the Gaon Burahs, who had declared the ownership of 1,47,000 Sq.Mtrs of land at Totup Hapa in favour of the petitioner have withdrawn their signatures citing that they had been misled

and cheated by the petitioner, the Sub-Divisional Officer posed a question that whether only 4(four) persons though they are Gaon Burahs of the village had the authority to give ownership of the land to any individual which is not owned by them. Accordingly, the said decision was not accepted and it was held that the petitioner could not produce any tangible evidence which could prove the matter beyond all reasonable doubt that the land in dispute is his private land and cited the reason that as the petitioner has not inherited the land from his ancestors neither any actual land owner has gifted him this land, it was held that the claim of the petitioner that 1,47,000 Sq.Mtrs of land at Totup Hapa as his private land could not be established. Accordingly, the matter was disposed of.

9. It is also noted that amongst the persons who were shown to be present in the order dated 26.09.2022, out of 4(four) Gaon Burahs whose signatures appeared in the Deed of Case Settlement dated 21.07.2019, 3(three) Gaon Burahs were present. Out of the 9(nine) parties, whose presence is recorded in the said Deed of Case Settlement, only 2(two) parties were found represented in the order dated 26.09.2017.

10. In the Minutes of Meeting held on 16.10.2022 under the chairmanship of one Shri Gollo Nikia, GPC, 2/6, Tigdo Gram Panchayat Segment, it is noted that the said meeting was called regarding Totup Happa areas basing on the genealogy story who settled there in past. After discussion, it was held that Tana, Teri, Teshi and Yab Clans have gradually migrated to the plain region and settled at the present homesteads, but they exercised their complete control and authority over these areas and accordingly, it was declared that the

authority concerned must recognize and declare Totup Happa and its adjoining area as the village community forest land areas through official gazetteers notification in the larger interest of preserving and conserving the flora, fauna and catchment areas for sources of drinking water of Yupia, Tigdo, Borum, Sood, Midpu, Doimukh, Nirjuli and Naharlagun.

11. Thus, it is seen that in all these three proceedings referred above, the same have petitioner in common, but the opposite parties/respondents are different, except for a miniscule few. Thus, through three orders with largely dissimilar respondents, the petitioner is making an attempt to create his right.

12. In the light of the said decision taken in the Minutes of Meeting dated 16.10.2022, on having observed that the land is declared to be of 4(four) different Clans and the meetings was attended by 27(twenty seven) attendees have agreed to declare the concerned land and its adjoining areas as village community forest land, this Court is of the considered opinion that the decision of the Deed of Case Settlement dated 21.07.2019, the order dated 26.09.2022, passed by the Sub-Divisional Officer, Papum Pare District, Doimukh and the Minutes of Meeting dated 16.10.2022, which are set aside by the learned Civil Judge (Senior Division), Yupia is not liable to be interfered with and the case is required to be proceeded *de novo*, however, in the presence of all the concerned parties, whose interest are reflected in the said orders including all other concerned who are proper and necessary parties in such a litigation/proceeding.

13. In view of the reasons discussed above, the Civil Revision Petition is found without any merit and is dismissed at the motion stage without issuance of the

notice on the respondents.

14. The Registry shall transmit a downloaded copy of this order to the Court of the learned Civil Judge (Senior Division), Yupia for making this order a part of record.

JUDGE

Comparing Assistant