

GAHC040013002023



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

Case No. : CRP/53/2023

Obit Darin
S/o Late Yon Darin, permanent resident of village Balek, PS Pasighat, District East
Siang, Arunachal Pradesh

VERSUS

Gandhi Darin
S/o Late Kinu Darin, resident of village Mirku, PO/PS Pasighat, East Siang District,
Arunachal Pradesh.

Advocate for the Petitioner : Dicky Panging

Advocate for the Respondent : Taba Tagum

BEFORE
HONBLE MR. JUSTICE BUDI HABUNG

ORDER

Date : 03-04-2024

- 1.** Heard Ms. D. Tamuk, learned counsel for the petitioner. I have also heard Mr. T. Tagum, learned counsel for the sole respondent.
- 2.** By filing this application under Article 227 of the Constitution of India, the petitioner has sought for setting aside and quashing of the impugned letter dated 12.09.2023 issued by the Head GB of Mirku Village by which the said Head GB had authorized one Shri Obuk Dupak, GB to conduct a Kebang and the

summon dated 15.09.2023 issued by the GB of Mirku Village by which the GB while fixing the date for conducting Kebang has directed the parties to bring their respective witnesses.

3. The case leading to the filing of this petition is that the respondent had earlier filed a complaint before the Head GB of Mirku Village, Pasighat on 11.02.2021 against the petitioner claiming some land and movable properties. After hearing the parties, the Kebang of Mirku Village passed the following judgment:

"Kebang Judgement"

On Dated 25th Feb, 2021, a Kebang was held in regard to the land and ornaments dispute arose between Shri Gandhi Darin and Shri Obit Darin at Mirku Village. Kebang was held under the chairmanship of Smti. Yamu Dai HGB Mirku Village and it was assisted by Shri Obuk Dupak GB Mirku Village. This Kebang was call upon due to the issued raised by Shri Gandhi Darin on 11/02/2021. After hearing both the parties, all the members, elders, Gaon Burah and Buris who were present in the kebang has unanimously come into final decision: -

- 1. There were thirty-two members of speaker in the kebang. According to the majority of members, they had an opinion that the ornaments would have been taken by Lt Kinu Darin. Because the Abbuk Kanji (Gun) was also taken by the Lt. Kinu Darin.*
- 2. All Rotne Arik (wet paddy field) was clearly declared that it is belong to Shri Obit Darin and it was also decided that all the develop land shall be remained with Balek Darin and the rest of the undevelop land shall be remain with Mirku Darin.*

Drafting members

- 1. Shri OsongDoming; Sd/-*
- 2. Shri Okom Jamoh,*

Kebang Disputed Parties

- 1. Gandhi Darin,
Mirku, Sd/-*
- 2. Shri Obit Darin,
Balek, Sd/-
Sd/-*

*(Smt. Yamum Dai) HGB
Kebang Chairman
Sd/- (Shri Obuk Dupak)
Kebang Assistant."*

4. Aggrieved by the above Kebang judgment, the respondent filed an appeal which is now pending before the court of the Civil Judge (Senior Division), Pasighat. However, during the pendency of the said appeal the respondent has filed another complaint before the HGB, Mirku village raising the same issue which was already decided by the said Kebang. Basing on the said second complaint, the GB Customary Court, Mirku Village issued a summon to the petitioner and fixed the date for re-Kebang. It is the said letter and summon which is under challenge in this petition.

5. It is submitted that since the matter raised in the second complaint has already been decided by the same Kebang at Mirku Village on 25.02.2021, and the said Kebang decision is under challenged in appeal and still pending adjudication before the Court of Civil Judge (Senior Division), another Kebang to decide the same issue is impermissible in law. Hence prays for setting aside the impugned letter and summon.

6. The learned counsel for the respondent has fairly conceded the submission of the learned counsel for the petitioner. However, he submits that although the main issue between the parties has been decided by the earlier Kebang, there are some additional points which could not be raised in the earlier Kebang and the same also needs to be decided. Therefore, the learned counsel for the respondent prays for allowing him to raise the additional issue before the learned court of Civil Judge (Sr.Div) in appeal.

7. In view of the contention made in the petition and the submission of the parties, and since the parties are not in dispute that the main issue between the

parties have already been decided by the earlier Kebang against which an appeal filed by the petitioner is still pending, I proposed to dispose of this petition at the order stage as prayed for by the parties. Accordingly, for the reason stated above, the impugned letter dated 12.09.2023 issued by the Head GB of Mirku Village and the summon dated 15.09.2023 issued by the GB Customary Court, Mirku Village is hereby set aside.

8. The respondent is at liberty to raise the additional issues before the appellate court as may be permitted under law.

With the above, this application stands allowed and disposed of.

JUDGE

Comparing Assistant