



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

Case No. : CRP/54/2023

Yaya Bomjen
Age: 43
Occupation :
Address:D/o Late Gibom Bomjen

Resident of Village Nari
PO/PS Nari
District Lower Siang
Arunachal Pradesh
Mobile No. 8257977157

VERSUS

Jumbom Koyu
Age: 0
Occupation :
Address:Wife of Late Tanya Koyu

Resident of Nari Village
PO/PS Nari
Lower Siang District
Arunachal Pradesh.

Advocate for : Uttam Deka, C. Modi
Advocate for : R. Koyu, Likha Tabin appearing for Jumbom Koyu: Advocate
appearing for respectively.

B E F O R E
HON'BLE MR. JUSTICE KARDAK ETE
JUDGMENT & ORDER (Oral)

Date : 06-06-2024

Heard Mr. C. Modi, learned counsel for the petitioner. Also heard Mr. R. Koyu, learned counsel for the sole respondent.

2. By filing this Civil Revision Petition, the petitioner has put to challenge the notice dated 18.09.2023 passed by the Additional Deputy Commissioner, Nari, Lower Siang District, whereby, the petitioner has been directed to remove the iron gate and any other associated structures constructed by her, within 15 (fifteen) days from the date of the notice on the ground that it obstructs the pathway at Nari village and that such obstruction of pathway is not only a nuisance but can lead to breach of peace and tranquillity in the area.

3. The case of the petitioner, shorn of unnecessary details, is that the land dispute had arisen between the petitioner and the respondent, which has been finally settled. The matter was settled by a Keba decision dated 15.06.2019.

4. The petitioner had approached this Court by filing a Civil Revision Petition being CRP No. 08 of 2021, against the decision of the Additional Deputy Commissioner, Nari, dated 22.03.2021, whereby, the Additional Deputy Commissioner had decided to revisit the Keba decision dated 15.06.2019. This Court, vide order dated 19.10.2022 had set aside the

order of the Additional Deputy Commissioner dated 22.03.2021 and a liberty was granted to the parties to approach appropriate forum under appropriate provision of law for execution of the Keba decision dated 15.06.2019.

5. Pursuant thereto, the petitioner had approached the Additional Deputy Commissioner, Nari for execution of the Keba decision dated 15.06.2019. The Additional Deputy Commissioner, Nari, by order dated 20.06.2023 in the Execution Proceedings had directed the respondent to dismantle the erected wall/obstruction, whatsoever, to pave way for motorable path of at least 6 feet width. Accordingly, the erected wall was removed.

6. Vide the impugned notice dated 18.09.2023, the Additional Deputy Commissioner, Nari, has directed the petitioner to remove the gate and any other associated structures as it has caused obstruction of pathway. The Additional Deputy Commissioner has clearly recorded that the pathway was opened on 15.07.2023 by dismantling the earlier obstructing structure according to the order passed in the execution case.

7. Being aggrieved, by the impugned notice dated 18.09.2023 passed by the Additional Deputy Commissioner, Nari, Lower Siang District, the present Revision Petition has been filed.

8. Mr. C. Modi, learned counsel for the petitioner submits that since the Keba had decided in favour of the petitioner with regard to the dispute between the petitioner and the respondent and pursuant thereto, an execution order was passed for dismantling the wall erected by the

respondent. The petitioner has the right to construct a gate and whatsoever, or any structure within her premises. He submits that the respondent has no right to claim or make any complaint against the petitioner as the erected gate is within her premises and it does not cause obstruction to any pathway.

9. Mr. Modi further submits that the gate which the petitioner has erected does not obstruct the pathway in any manner to anybody in the village. Therefore, he submits that the issuance of notice against the petitioner for removal of the iron gate constructed by her is illegal and may be set aside. The learned counsel for the petitioner apart from above submissions, has failed to place any other ground for interference to the impugned notice dated 18.09.2023 passed by the Additional Deputy Commissioner, Nari, Lower Siang District.

10. On the other hand, Mr. R. Koyu, learned counsel for the respondent submits that the impugned notice has been issued as the petitioner has illegally constructed a gate obstructing the pathway of the petitioner taking advantage of the execution order, whereby, the respondent was directed to dismantle the erected wall. He submits that the gate constructed by the petitioner is 200 to 300 meters away from the premises of the petitioner and it is adjacent to her house, which causes obstruction to her. Therefore, the Additional Deputy Commissioner has rightly issued the notice for removal of the gate constructed by the petitioner.

11. I have considered the submissions of the learned counsels for the parties and also perused the materials available on record.

12. On consideration of the submissions as well as the materials available on record, it transpires that the dispute between the petitioner and the respondent with regard to the pathway has been resolved pursuant to the direction for dismantling the erected wall of the respondent, which was causing inconvenience and obstruction to the petitioner. It is also seen that an information has been brought to the notice of the Additional Deputy Commissioner that the petitioner has erected an unauthorised iron gate, obstructing the pathway at Nari village. The Additional Deputy Commissioner, Nari recorded that the same pathway was opened on 15.07.2023 by dismantling the earlier obstructing structure of the respondent, pursuant to the order of the Additional Deputy Commissioner, Nari, in Execution case no. 01/2022, between the petitioner and the respondent. On having been intimated and informed about the said erection of gate by the petitioner, which obstructs the pathway at Nari village, the impugned notice dated 18.09.2023 has been issued directing the petitioner to remove the iron gate and any other associated structures within 15 (fifteen) days.

13. On careful perusal of the notice, it is seen that the petitioner appears to have erected an iron gate which obstructs the pathway at Nari village, which cannot be permitted. The petitioner has been given reasonable period of 15(fifteen) days to remove the said illegal iron gate erected by the petitioner.

14. It cannot be countenanced that merely because the earlier dispute of obstruction has been decided and settled in favour of the petitioner and against the respondent, the petitioner would have the licence to construct

or erect any structure beyond her premises, which would cause an obstruction to the pathway in the village.

15. In view of the discussion made hereinabove, in my considered opinion, no ground has been made out by the learned counsel for the petitioner for interference to the impugned notice dated 18.09.2023 passed by the Additional Deputy Commissioner, Nari, Lower Siang District.

16. Accordingly, the revision petition stands dismissed.

17. The Additional Deputy Commissioner, Nari, Lower Siang District, is directed to ensure that no one should erect structure, either gate or wall, which would obstruct the pathway of the people at Nari village.

JUDGE

Comparing Assistant