

GAHC040015532023



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

Case No. : CRP/65/2023

Techi Koli
S/o Lt. Techii Tado, a permanent and present resident at Gotopu-II village,
PO/PS Sagalee, Dist Papum Pare, Arunachal Pradesh. Mobile No. 9612509662

VERSUS

Techi Kaya
S/o Lt. Techii Nigla, a permanent and present resident at Gotopu-II village,
PO/PS Sagalee, Dist Papum Pare, Arunachal Pradesh. Mobile No. 9612509662

Advocate for the Petitioner : Tabo Gyadi

Advocate for the Respondent : Marto Kato

BEFORE
HONBLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 29-02-2024

Heard Mr. T. Gyadi, learned counsel for the petitioner. Also heard Mr. M. Kato, learned counsel appearing for the respondent.

2. As consented to by the learned counsels for the parties, this petition is

taken up for final hearing and disposal.

3. The petitioner by way of instituting the present proceeding has challenged a notice dated 14.11.2023 issued by the All Sagalee Sub-Division Gaon Burah/Burish Welfare Association (ASSDGBBWA) towards convening a local Nyelee (Mel) on 21.11.2023 at the Gaon Burah's Office, Sagalee, for settlement of the land dispute between the petitioner and the sole respondent, herein.

4. The learned counsel for the petitioner has submitted that the All Sagalee Sub-Division Gaon Burah/Burish Welfare Association (ASSDGBBWA) is not a recognized customary Court under the provisions of the Arunachal Pradesh Civil Courts Act, 2021 (as amended) and the said body has no authority to decide the land dispute as arising between the parties. It is submitted that the petitioner had approached the Gaon Burah(s) of his village, wherein, the land is also situated for settlement of the dispute, however, on refusal of the respondent to not submit to the said jurisdiction, the said proceedings could not be taken forward and it is under that situation that the notice dated 14.11.2023 from the said association was received. It is the further contention of the petitioner that the dispute has to be first settled at the village level before the designated customary Court, therein and it is only on non-resolution of such dispute and/or a party being aggrieved by such resolution that the further proceedings before other customary Courts could be invoked.

5. Mr. M. Kato, learned counsel for the respondent has fairly submitted that the dispute would in all probability be first required to be decided by the customary Court as constituted for the village, wherein, the land is situated and he would have no objection if this Court directs that such dispute be first

resolved by the customary Court as constituted for the village, wherein, the land is situated.

6. I have heard the submissions advanced by the parties and also perused the materials available on record.

7. The parties have consented that the dispute as existing between the parties is to be first decided by the customary Court of the village, wherein the land is situated i.e. at Gotopu-II village and the same not having been done, the move by the All Sagalee Sub-Division Gaon Burah/Burish Welfare Association (ASSDGBBWA) to have the dispute adjudicated is not in consonance with the provisions of law governing the functioning of customary Courts for resolutions of disputes. Accordingly, it is to be held that exercise of powers by the said association in the matter was without jurisdiction.

8. Having concluded that All Sagalee Sub-Division Gaon Burah/Burish Welfare Association (ASSDGBBWA) does not have the jurisdiction to settle the dispute as arising in the present proceedings between the parties, the notice dated 14.11.2023 is held to be not sustainable and accordingly, the same stands interfered with.

9. The petitioner is required to now approach the village authority/customary Court having jurisdiction over the area where the land in question, dispute pertaining to which has arisen, is situated and in the event of such approach being made, the authority so mandated shall consider the grievance of the petitioner and resolve the dispute after providing due opportunity of hearing to the respondent, herein.

10. With the above observations and directions, this Civil Revision Petition stands disposed of.

JUDGE

Comparing Assistant