

GAHC020003792024

2024:GAU-NL:544



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

Case No. : WP(C)/134/2024

MR. KATОВI H HOLO
S/O LATE HOWOTO HOLO
R/O H.NO. 57
HOVISHE VILLAGE
NIULAND NAGALAND

VERSUS

THE STATE OF NAGALAND AND 4 ORS
REPRESENTED BY THE CHIEF SECRETARY
GOVT. OF NAGALAND
KOHIMA NAGALAND

2:THE COMMISSIONER
GOVT. OF NAGALAND
NAGALAND KOHIMA

3:THE DEPUTY COMMISSIONER
NIULAND KOHIMA

4:THE SDO (CIVIL)
NIULAND NAGALAND

5:MR. INAKA HOLO
S/O LATE NIZHEVI HOLO
R/O KIYEZU B BUILDING
PROJECT COLONY
NIULAND TOWN
NIULAND NAGALAND

Advocate for the Petitioner : A. ZHIMOMI,

Ms. Esther,
Ms. Lhousino,
Ms. N. Solo,
Mr. G. Kamei,
Mr. M. Konyak, Advs.

Advocate for the Respondent : Mr. Imti Imsong, Addl. Adv. General, N/L

**BEFORE
HON'BLE MR. JUSTICE KAKHETO SEMA**

JUDGMENT & ORDER (ORAL)

Date : 17-10-2024

Heard Mr. A. Zhimomi, learned counsel for the petitioner and Mr. Imti Imsong, learned Addl. Advocate General for the State respondents. None appears for the respondent No.5 despite the service of notice.

2. The facts of the case, in brief, is recited below;

i) The respondent No.5 submitted an application dated 29/12/2021 to the Village Council, Hovishe village claiming a land dispute between him and the petitioner.

ii) By the letter dated Nil, the Village Council informed the respondent No.5 that it is not aware of the claims put forward by him and returned the application, thus rejecting the application of the respondent No.5.

iii) The respondent No.5, thereafter filed the application dated 23/08/2022 to the Deputy Commissioner, Niuland against the decision of Hovishe village council. The Deputy Commissioner endorsed the application to the SDO(Civil), Niuland and pursuant to which the SDO(Civil) endorsed the matter to the Dobashi Court, Niuland.

iv) By the summon dated 30/08/2022, the petitioner and the respondent No. 5 were directed to appear before the Dobashi Court, Niuland, on 13/09/2022. The petitioner appeared and objected to the claim of the respondent No.5 on the ground that the Dobashi Court had

no jurisdiction to entertain the application and that entertaining a claim after more than 50 years is impermissible.

v) The Dobashi Court, Niuland, however by the settlement dated 28/11/2022 held that the respondent No.5 is entitled to the immoveable properties of his late father situated in Hovishe village. Against the decision of the Dobashi Court, the petitioner has filed the appeal dated 19/12/2022 before the Deputy Commissioner, Niuland, however till date no process has been issued pursuant to the filing of the appeal before the Deputy Commissioner, Niuland.

3. Mr. A. Zhimomi, the learned counsel for the petitioner has submitted that the Dobashi Court, Niuland, has no jurisdiction to entertain an appeal against the decision of the village council, Hovishe village, therefore, neither the Deputy Commissioner, Niuland, nor the SDO(Civil), Niuland could have endorsed the appeal/application filed by the respondent No. 5 to the Dobashi Court, Niuland.

4. Mr. Imti Imsong, the learned Addl. Advocate General for the State respondents fairly submits that, this Court, in a catena of decisions has held that, the Dobashi Court has no jurisdiction to entertain an appeal against the decision of the village council and in support of his submission has placed the judgment & order dated 19/06/2023, passed by this Court in W.P.(C) No. 164/2017, where in the said case, this Court, relying on the judgment & order dated 04/12/2020, passed by the Hon'ble Division Bench in a reference case, has held that the Dobashi Court's has no jurisdiction to entertain an appeal against the decision of the village council.

5. In the present case too, it is seen that, pursuant to the rejection of the application of the respondent No.5 by the village council Hovishe village, the respondent No.5 had filed the application dated 23/08/2022 against the decision of the village council, Hovishe village, before the Deputy Commissioner, Niuland, which was endorsed to the SDO(Civil) Niuland and the SDO(Civil) Niuland, in turn, by the letter dated 26/08/2022 had endorsed the matter to the Dobashi Court, Niuland. Since, the law is well settled that the Dobashi Court has no jurisdiction to sit in an appeal over the decision of the village court, neither the Deputy Commissioner, Niuland nor the

SDO(Civil) Niuland could have endorsed the dispute to the Dobashi Court, Niuland for adjudication and settlement. Therefore, any decision passed by the Dobashi Court against the decision of the village court, even on endorsement by the Deputy Commissioner/SDO(Civil), cannot stand the scrutiny of law and is liable to be quashed and set aside.

6. Accordingly, the settlement dated 28/11/2022, passed by the D.B's Court, Niuland, Nagaland, which is Annexure-F to the writ petition, is quashed and set aside.

7. The Deputy Commissioner, Niuland shall hear and dispose the application dated 19/12/2022 submitted by the petitioner (Mr. Katovi H.Holo) in accordance with law. The Deputy Commissioner, Niuland shall make an endeavour to dispose the application dated 19/12/2022 at an early date but not exceeding 3(three) months from the date of passing of this judgment & order.

8. Writ petition disposed. No cost.

Sd/-
JUDGE

Comparing Assistant