Serial No.01
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WA No.27/2014

Date of Order: 08.12.2020

Shri Binoli Marak & ors Vs. Kaljing Marak & anr

Coram:

Hon'ble Mr. Justice Biswanath Somadder, Chief Justice
Hon'ble Mr. Justice H.S. Thangkhiew, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. R. Kar, Adv
For the Respondent(s) : Mr. R. Majaw, Adv for R/1
Mr. S. Dey, Adv for R/2

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

The instant writ appeal has been preferred by the writ petitioners against the impugned judgment and order passed by a learned Single Judge dated 26.02.2014. For convenience, the entire impugned judgment and order dated 26.02.2014 is set out hereinbelow:-

"26.02.2014

1. The instant writ petition is directed against the impugned order dated 20.11.2003 passed by the learned Executive Member in GDC Rev. No. 112 A/C of 1998 and the judgment and order dated 25.04.2011 passed by the learned Chief Executive Member, GHADC in GDC Rev. Appeal No. 10 A/C of 2003.

2. The petitioner's case in a nutshell is that:

"The present case is related to the dispute regarding appointment of Joint Nokmas between the Petitioners and the Respondents. The Petitioners No 1, 2, 3 belong to the Denajekgre Akhing and the Petitioner 4 and 5 belong to Chibrongiri Akhing respectively. The Petitioners filed petitions for registering them as joint Nokmas before the Executive

Member I/C Revenue, GHADC which was objected by the Respondent No 1 of Thongbolgiri Akhing – IV – 47 (i) on the ground that Respondent No 1 is the only one Nokma of Thongbolgiri Akhing and Denajekgre and Chibongiri are the villages under Thongbolgiri Akhing.

The matter travelled from the Court of learned E.M. to the court of Learned C.E.M. , GHADC respectively and lastly Hon'ble High Court remanded the case to the court of the Learned C.E.M. for fresh trial but the Learned C.E.M. without following the laid down procedures dismissed the Appeal of the Petitioners on 25.4.2011. Hence this Petition under Article – 226 of the Constitution of India with a prayer for setting aside and quashing the impugned order dt: 25.4.2011 and also for directing the Respondent No 2 to dispose of the Appeal in accordance with law".

3. The learned counsel, Mrs. S. Bhattacharjee, GA, Meghalaya appearing for and on behalf of the petitioners submits that the petitioners were the Akhing Nokmas of Dinajekgiri village and Chibrongiri village, and there was some dispute about the Nokmaship so, the petition was moved before the Executive Member of Revenue who had passed necessary order. But, being aggrieved, the petitioners made an appeal before the Chief Executive Member. Appellate Court also upheld the impugned order dated 20.11.2003 passed by the learned Executive Member of Revenue, so they approached the High Court and this High Court ordered for disposal of the appeal in the light of ***Dore Sangma*** case reported in ***GLR. 1988 Vol. II page 120-137***.

4. As per the direction, the impugned order dated 20.11.2003 was passed by the learned Executive Member I/C Revenue. Being aggrieved by the impugned order dated 20.11.2003 as well as the judgment and order dated 25.04.2011 passed in GDC Rev. Appeal No. 10 A/C of 2003, the petitioners approached this court and prays that the impugned order may be set aside.

5. On the other hand, the learned counsel for the respondent/District Council, Mr. S. Dey, SC GHADC appeared and submitted that this High Court has already set aside the Annexure-I i.e. the lists of Nokmas maintained by the District Council and Annexure-II and also further

contended that there is nothing wrong in the impugned order dated 20.11.2003 as well as the judgment and order dated 25.04.2011 and prays that the writ petition may be dismissed.

6. After hearing the submissions advanced by the learned counsel at Bar, I have carefully gone through the impugned order dated 20.11.2003 and I find that the learned court below has framed the issues, discuss the evidence as well as the submissions of the learned counsel. Therefore, I did not find any irregularities in the impugned order. Rather, I find that the impugned order has been passed in the light of *Dore Sangma* case (supra) laid down at para 20 which is quoted below:

> ***"20. For all these reasons, we would hold that the Revenue Member alone has jurisdiction to decide the types of disputes at hand. But then while doing so, the Revenue Member has to follow the fundamental principles of judicial procedure; these being: (1) framing of issues which has been regarded as necessary for courts to get the grip of the case. (See Vindeo vs Ziakruool, (1983) 1 GLR (NOC) 34). (2) Opportunity to lead evidence on the issues framed – the evidence given could be recorded in full or summary of the same could be noted; and (3) hearing of the parties themselves or through their lawyers if engaged. This apart, some other accepted principles of sound judicial procedure like not allowing a document to be used in a case without the other side having been given opportunity to rebut the same should also be followed when the case is taken up by the Revenue Member in the first instance or by the Chief Executive Member on appeal".***

7. After perusal of the *Dore Sangma* case, I find that the procedure has been taken care by the learned Executive Member while passing the impugned order dated 20.11.2003 and then came to the conclusion. Therefore, I did not find anything wrong or illegality with the order. Similarly, after perusal of the judgment and order dated 25.04.2011 passed in GDC Rev. Appeal No. 10 A/C of 2003, I did not find anything wrong to interfere with the impugned orders. Hence, I am not inclined to interfere with the impugned order dated 20.11.2003 passed by the

Executive Member as well as the judgment and order dated 25.04.2011 passed by the Chief Executive Member.

8. Mr. S. Dey, learned counsel for the District Council is directed to return the Lower Court Case record to the concerned court immediately.

9. Accordingly, this instant writ petition is dismissed and stands disposed of. No order as to costs."

From a plain reading of the impugned judgment and order, as reproduced above, it appears that the same has been supported with cogent and justifiable reasons. In an Intra-Court Mandamus appeal, interference is usually warranted only if palpable infirmities or perversities are noticed on a plain reading of the impugned judgment and order. In the facts of the instant case, on a plain reading of the impugned judgment and order, we do not notice any such palpable infirmity or perversity.

As such, the instant appeal is liable to be dismissed and stands dismissed accordingly.

सत्यमेव जयते
HIGH COURT OF MEGHALAYA

(H.S. Thangkhiew)
Judge

(Biswanath Somadder)
Chief Justice

Meghalaya
08.12.2020
"Lam AR-PS"