GAHC020000012025 2025:GAU-NL:45

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

Case No. : I.A.(Civil)/1/2025

SMTI. G KASHELI SEMA
D/O LT. GHOVUKHU KINIMI
R/O H.NO. B3, PWD HOUSING COMPLEX
GROUND FLOOR
DIMAPUR NAGALAND

VERSUS

SHRI MUGHATO H KINIMI
S/O LT. HEVISHE KINIMI
R/O SASTAMI VILLAGE
BPO-VK TOWN
ZUNHEBOTO

Advocate for the Petitioner : P SURIEN,

Advocate for the Respondent : ,

Linked Case : C. REVN/4/2024

SMTI. G KASHELI SEMA
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BPO-VK TOWN
ZUNHEBOTO NAGALAND

Advocate for : P SURIEN
Advocate for : JOSHUA SHEQI appearing for SHRI MUGHATO H KINIMI

BEFORE
HONBLE MR JUSTICE KARDAK ETE

O R D E R

20.02.2025

Heard Mr. P. Surien, learned counsel for the applicant/petitioner and also heard Mr. Joshua Sheqi, learned counsel for the opposite party/respondent.

2. By filing this application, the applicant has sought for a direction to the respondent to not cause any hindrance to the applicant for cultivation of her share of plot of land as decided by the Dobashi Sumi Customary Court, Zunheboto, wherein the disputed land has been divided between the Litapu and the Thaishe/Hevishe clans.

3. Mr. P. Surien, learned counsel for the applicant/petitioner submits that the Dobashi Sumi Customary Court, Zunheboto has decided the matter by dividing the land between the two clans namely Litapu and

Thaishe/Hevishe by order dated 20.11.2021 against which the opposite party/respondent has filed an appeal before the learned District Judge, Zunheboto which was stayed by the District Judge. Being aggrieved by the said order of the learned District Judge, Zunheboto, the connected Civil Revision petition being C.REVN/4/2024 has been filed which is pending disposal before this Court. This Court, on 19.03.2024, while issuing notice, has stayed the order dated 30.09.2022 and 19.12.2023. Mr. P. Surien, learned counsel further submits that the opposite party/respondent is cultivating his share of plot of land in terms of the order of the Dobashi Sumi Customary Court, Zunheboto, however, the applicant has not been allowed to cultivate her share of land. Therefore, he submits that the applicant may be allowed to cultivate her share of land as the opposite party/respondent is also cultivating his share of land in terms of the order of the Dubashi Sumi Customary Court, Zunheboto.

4. Mr. Joshua Sheqi, learned counsel for the opposite party/respondent submits that the interlocutory application for vacating the order dated 19.03.2024 has been filed which is pending before this Court. As the issue as to whether appeal from a decision of the Dobashi Court would lie before the appropriate civil court is pending, therefore, the interlocutory application for vacating could not be taken up. He submits that since the question as to whether an appeal against the Dobashi Court would lie before the civil court is yet to be determined, it would not be appropriate at this stage to allow the present application and as such prays that the present application may be kept pending till the final decision is taken by the Hon’ble Court.

5. Having considered the submissions of the learned counsels for the parties and also on perusal of the materials on record, it is seen that the Dobashi Sumi Customary Court, Zunheboto vide order dated 20.11.2021 has divided the disputed land between two parties namely Litapu and Thaishe/Hevishe clans against which an appeal has been preferred by the opposite party/respondent before the District Judge, Zunheboto, wherein the District Judge has stayed the said order dated 20.11.2021. Against the order of the learned District Judge, Zunheboto dated 30.09.2022, the applicant/petitioner has filed the connected revision petition being C.REVN/4/2024 which is pending for disposal. This Court, while issuing notice has stayed the order of the learned District Judge, Zunheboto dated 19.03.2024.

6. It is stated at the bar that the opposite party/respondent is cultivating his share of land in terms of the order of the Dobashi Sumi Customary Court, Zunheboto dated 20.11.2021. It is also admitted that the applicant/petitioner has been restrained from cultivating her share of land.

7. In view of the above factual consideration, this Court is of the considered view that it would be appropriate to allow the applicant/petitioner to cultivate her share of land as the opposite party/respondent is said to be cultivating his share of land in terms of the order dated 20.11.2021 passed by the Dobashi Sumi Customary Court, Zunheboto. Accordingly, it is provided that the applicant/petitioner shall be allowed to cultivate her share of land in terms of the order dated 20.11.2021 passed by the Dobashi Sumi Customary Court, Zunheboto. It is made clear that the applicant/petitioner shall not alienate or sale the

land which she is being allowed to cultivate by this order.

8. Since Mr. Joshua Sheqi, learned counsel for the opposite party/respondent expresses his apprehension that disposal of the present IA may create hurdles for him to pursue the matter in the future, it is made clear that the present application has been considered only for the purpose of allowing the applicant/petitioner to cultivate her share of land in the interregnum. It is further clarified that the above order allowing the petitioner to cultivate is only an interim measure and shall not have any bearing in determination of the main petition as well as any other interim application which is pending or that may be filed by the parties.

9. Interlocutory Application allowed and disposed in the above terms.

JUDGE

Comparing Assistant