



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

Case No. : WP(C)/148/2025

SHRI W. KITHAN @ WOCHUMO KITHAN
S/O LT. SIKHOMO KITHAN, R/O FULL NAGARJAN COLONY, DIMAPUR,
NAGALAND

VERSUS

STATE OF NAGALAND AND 7 ORS
REPRESENTED BY THE CHIEF SECRETARY, NAGALAND KOHIMA 2:THE
DEPUTY COMMISSIONER
WOKHA NAGALAND

3:THE SUB-DIVISIONAL OFFICER (C)
RALAN
WOKHA NAGALAND

4:THE DISTRICT HEAD DOBASHI
DISTRICT CUSTOMARY COURT
OFFICE OF THE DEPUTY COMMISSIONER
WOKHA NAGALAND

5:THE HEAD DOBASHI
SUB-DIVISIONAL CUSTOMARY COURT/ DB COURT
RALAN SUB-DIVISION
WOKHA NAGALAND

6:LISHAYAN VILLAGE COUNCIL
REPRESENTED BY THE VILLAGE COUNCIL CHAIRMAN (VCC)
RALAN SUB-DIVISION
WOKHA NAGALAND

7:SHRI MOYITHUNG
R/O LISHAYAN VILLAGE
RALAN SUB-DIVISION
WOKHA NAGALAND

8:SHRI RAPVUO HUMTSOE
GB
S/O EZANTHUNG HUMTSOE
R/O LISHAYAN VILLAGE
RALAN SUB-DIVISION
WOKHA NAGALAN

Advocate for the Petitioner : P. B. PAUL, TSIPONGSE THONGER, MEDO
VERO, CHUBANUNGKUM, PFOSEKHO PFOTTE

Advocate for the Respondent : GOVT ADV NL,

BEFORE
HON'BLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

Date : 17/11/2025

1. Heard Mr. Medo Vero, learned counsel for the petitioner. Also heard Mr. Imti Imsung, learned AAG, Nagaland for the respondent nos. 1, 2 & 3 and Mr. P.P. Lotha, learned counsel for the respondent nos. 6,7 & 8.
2. This petition under Article 226 of the Constitution of India has put to challenge the judgement and order dated 11/07/2025 passed by the District Customary Court, by which the compensation for constructing IGGL Gas Pipeline has been directed to be distributed between the Lishayan village and the petitioner in the ratio of 60% and 40%.
3. The case of the petitioner is that he is the owner of land on which the IGGL Gas Pipeline has been constructed and though he should have been given the entire compensation amount, the impugned judgement and order has awarded him only 40% of the

compensation amount. The petitioner's counsel thus prays that the impugned judgement and order should be set aside and the petitioner should be awarded the entire compensation amount.

4. The counsel for the respondent nos. 6 to 8 submits that the IGGL Gas Pipeline does not touch an inch of the petitioner's land and the 40% compensation that has been awarded to the petitioner by the District Customary Court, is only by way of appeasement. He also submits that the land in question belongs to the respondent nos. 6 to 8 and not the petitioner, as per the spot verification conducted by SDO(C) Ralan and the Dobashi, in the presence of both the parties. He accordingly submits that no case for interference has been made out by the petitioner.

5. The learned AAG, Nagaland has been asked as to whether the dispute between the parties, in relation to the compensation payable to the petitioner, which had been decided by the Dobashi Court vide the earlier judgement and order dated 10/12/2024 and the subsequent appeal decided by the District Customary Court (Dobashi) on 11/07/2025, had been referred to the said Courts by the Office of the Deputy Commissioner or his Officers in terms of section 23A of the Rules for Administration of Justice and Police in Nagaland, 1937 (*herein after referred to as the Rules of 1937*). He submits that both the decisions had been made by the Dobashi Court and the District Customary Court, on the basis of the dispute being referred to them by the Office of the Deputy Commissioner and his officers.

6. I have heard the learned counsels for the parties.

7. On a pointed query made to the counsel for the

respondent nos. 6 to 8, as to whether the two decisions made on 10/12/2024 and 11/07/2025 by the Dobashi Court and District Customary Court, was in pursuance to a reference made by the Deputy Commissioner or his officers under section 27A of the Rules of 1937, the said counsel has replied in the affirmative.

8. The submissions made by the counsels for the parties thus clearly show that the dispute between the parties has been decided by the Dobashi Court and the District Customary Court. The issue in the present case is whether the appeal from a Dobashi Court would lie to the District Customary Court.

9. Rule 23 of the Rules of 1937 provides that the administration of civil justice in the State of Nagaland is entrusted to the Deputy Commissioner and his Officers and the Customary Courts constituted under Chapter IV-A of the Rules. Dobashi and other village authorities may be appointed by the State Government from time to time by notification in the official gazette. Section 39 of the Rules of 1937 provides that there shall be 3 (three) classes of Customary Courts in the State of Nagaland, which will be (i) Village Court, (ii) Subordinate District Customary Court and (iii) District Customary Court.

10. Rule 23 of the Rules of 1937 states as follows :-

“23. The Administration of Civil Justice in the State of Nagaland is entrusted to the Deputy Commissioner, Additional Deputy Commissioner Assistant to the Deputy Commissioner, Customary Courts constituted under Chapter IVA of the Rules, Dobasis and other village authority may be appointed by the State Government from time to time by Notification in the Official Gazette.

Provided that the Government of Nagaland shall be empowered to invest

any officer of the State Government having judicial experience with the powers of the Deputy Commissioner for the trial of any particular civil case or cases and the Officer so invested with the powers of the Deputy Commissioner shall be designated as Deputy Commissioner (Judicial) and shall exercise all the powers of the Deputy Commissioner in the behalf."

11. The Nagaland Legislative Assembly, on 07/03/2025, passed the Rules for Administration of Justice and Police of Nagaland (Fifth Amendment) Act, 2025, which provides that Chapter IV-A of the Rules of Administration of Justice and Police in Nagaland, shall come into force on such date as and when the State Government notifies it by notification in the Official Gazette. It is an admitted position in the Bar that no notification has been issued in the Official Gazette till date, as to when Chapter IV-A of the 1937 Rules would come into force. As such, as on date, the District Customary Court is not in existence. However, the District Customary Court has passed the impugned judgement and order dated 11/07/2025.

12. The above being said, Rule 23A and 31 of the 1937 Rules, provides as follows :-

"23A – The Dobhasis hence forward shall try and decide such civil cases only as may be referred to them by the Deputy Commissioner or Additional Deputy Commissioner or Assistant to the Deputy Commissioner as the case may be.

31. An appeal shall lie from the decision of the mauzadar, gaonbura, chief, headman of khels, dobhasis(1) or other duly recognized village authority to the tribal court whenever constituted on otherwise*(2) to the Deputy Commissioner or his Assistant. A record shall be made of the matter in dispute and the decision of the village authorities. If necessary, the Court shall examine the parties, and if the decision appears to be just, shall affirm and enforce it as one of its own. If the Court sees reason to doubt*

the justice of the decision, it will try the cases denovo, or refer it to a panchayat as above."

13. A perusal of the above two Rules clearly go to show that the Dobashi can try and decide such civil cases as referred to them by the Deputy Commissioner or his Officers and that decision of the Dobashi shall be appealable to a Tribal Court, whenever constituted. The Tribal Court has not been constituted till today as has been stated by the counsels for the parties.

14. On a reading Rule 31, it thus become clear that an appeal from a Dobashi Court shall lie to the Deputy Commissioner or his Assistant and the said appeal cannot be relegated to some other authority by the Deputy Commissioner or his officers.

15. The facts of the present case is that because the compensation amount was not given to the petitioner, the dispute raised by the petitioner regarding payment of the compensation amount was decided by the Dobashi Court, vide judgement dated 10/12/2024 in DB Case No. 17/2024, wherein the compensation was directed to be distributed between the village and the petitioner in the ratio of 60% to 40%. The petitioner filed an appeal against the same to the Deputy Commissioner, who endorsed the same to the District Customary Court for disposal. The District Customary Court, which is a non existent Court, reiterated the decision of the Dobashi Court vide the impugned judgement and order dated 11/07/2025.

16. Due to the above facts, this Court converts the present petition under Article 226 of the Constitution to a petition under Article 227. The impugned judgement and order dated 11/07/2025

passed by the District Customary Court is hereby set aside.

17. As the decision of the District Customary Court has been made without being in existence, the said impugned judgement and order is null and void. The appeal of the petitioner against the judgement dated 10/12/2024 in DB Case No. 17/2024 shall have to be decided by the concerned Deputy Commissioner, in terms of Rule 31 of the Rules of 1937.

18. The writ petition is accordingly disposed of.

Sd/-

JUDGE

Comparing Assistant