

GAHC020008502024

2025:GAU-NL:340



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

Case No. : C. REVN/20/2024

THEJAO SEKHOSE
AGED ABOUT 64 YEARS,
S/O LATE KEDUOKIETUO SEKHOSE,
R/O KENUOZOU COLONY, KOHIMA

VERSUS

NEINGUMEZO NIPU
S/O ZASHIU
KERUTHI-B
H.NO. 160E
R/O SECHU ZUBZA, KOHIMA

Advocate for the Petitioner : A. ZHO, V KOZA, C. LOSOU

Advocate for the Respondent : ,

BEFORE
HON'BLE MRS. JUSTICE YARENJUNGLA LONGKUMER

Advocates

For the Petitioner : Mr. A. Zho

Date of Hearing & Judgment : **28.07.2025**

JUDGMENT & ORDER (ORAL)

The present application under Rules 31 and 32 of the Rules for Administration of Justice and Police in Nagaland has been filed assailing the Judgment and Order dated 19.02.2024 passed by the Assistant to the Deputy Commissioner, Kohima, Sechu, Zubza in Pol. Case No. 3/2022 and the Order dated 08.06.2022 passed by the Dobashi Court of Sechu, Zubza Village Council in Pol. Case No. 3/2022.

2. I have heard learned counsel for the petitioner, Mr. A. Zho.

3. This Court, by Order dated 18.03.2025 has ordered that the notice issued to the sole respondent shall be deemed to be duly served and the petition will proceed *ex-parte* against the sole respondent. In such circumstance, the present petition is taken up for hearing today.

4. The case of the petitioner is that the present disputed land measuring 17.47 Acres at Tsuru Colony, Sechu, Zubza of Kohima District, Nagaland is under the absolute control and possession of the petitioner and his predecessor-in-interest for more than the last 100 years. The petitioner/plaintiff further stated that in the year 1920, one Saleo Nipu of Sechüma Village approached the petitioner's great-grandfather to lend him money in the form of loan for the purpose of cattle business by mortgaging his land situated at Tsuru Colony, Sechu, Zubza. The great-grandfather of the petitioner loaned the said amount with a condition that if the loan seeker failed to repay the loan with interest then the land situated at Tsuru Colony, Sechu, Zubza shall be given to the great-grandfather of the petitioner as mortgaged property. The said verbal

agreement was witnessed by the then G.B. of Sechuma Village. As agreed upon and on failing to repay the loan amount by Mr. Saleo Nipu, the right and ownership over the disputed land was transferred in favour of the petitioner's great-grandfather.

5. The petitioner/plaintiff further states that after the rights and ownership was transferred in favour of his great-grandfather, he had taken possession of the said land and subsequently developed a portion of the land into wet terraced paddy fields. Besides the terrace cultivation, jhum cultivation was also practiced and the last jhum cultivation was done in the year 1979 by the family members of the late great-grandfather of the petitioner. The descendants of the petitioner's great-grandfather including the present petitioner also constructed three houses sometime in the year 1970-1980 in the present disputed land. And these developments were never objected upon by the descendants of the Late Saleo Nipu. These houses are still in existence and are occupied by the petitioner and his family members.

6. The petitioner/plaintiff also states that the Sechu, Zubza Village had once proposed to construct a road from the Government High School, Sechu, Zubza to connect with NH-29 near Deiru Bridge at Tsuru Colony, which was to pass through the petitioner's land and as such in the year 2008, the Sechu, Zubza Village Council had approached the petitioner several times to seek permission for construction of the road to pass through the petitioner's land. It is, therefore, seen that the leaders of the Sechu, Zubza have also recognized that the present petitioner and his family members are the rightful owners of the present disputed land.

7. The construction of the 4-Lane of the National Highway road between Dimapur to Kohima started in the year 2013 and for the purpose of land acquisition the Deputy Commissioner, Kohima published public notice in local dailies inviting claims and objections from all the landowners within 15 days from the date of the said publication. Being the landowner, the present petitioner along with other family members claimed land compensation against their plot which falls within the present disputed land at Tsuru Colonu, Sechu, Zubza. After identifying the petitioner and his family members as the real landowners, the Office of the Deputy Commissioner, Kohima has already paid the compensation amount in full to the descendants of the great-grandfather of the petitioner including the present petitioner and his family members.

8. The petitioner submits that after a passage of almost 100 years the Nipu Clan of Sechü Village wrote a Letter dated 03.12.2014 to the petitioner claiming ownership over the present disputed land and also requested for holding a meeting in order to discuss the ownership of the said land. The respondent/defendant in the said Letter dated 03.12.2014 fairly admitted that the petitioner and his family members are in possession of the land for several years and, therefore, the claim of the respondent/defendant was without any basis and without any supporting documents. Therefore, the petitioner and his brothers in response to the said Letter wrote back on 09.12.2014 that the land and the buildings at Tsuru Colony, Sechu, Zubza belongs solely to the petitioner's family and that there was no necessity of holding any discussion about the same.

9. The petitioner has also produced a copy of the land possession

certificate dated 16.09.2014 issued in favour of his father Late Shri Ketounei Sekhose by the Deputy Commissioner, Kohima as Annexure-8 to the petition. It is submitted that this land possession certificate dated 16.09.2014 still holds the field and has not been assailed or challenged by the respondent/defendant.

10. On 11.10.2022, the present respondent/defendant, along with three others intruded upon the petitioner's land and started cutting the jungles and claimed ownership over the land. Against such illegal cutting of plants and destruction of the jungles, the petitioner submitted complaint on 17.10.2022 to the Sub-Divisional Officer (C) [SDO(C)], Sechu, Zubza seeking intervention. The SDO(C) advised the petitioner to file a complaint before the customary court and accordingly, the petitioner and his brothers filed a complaint on 07.12.2022 before the Dobashi's Court and the same was registered as Pol. Case No. 3/2022 before the Dobashi's Court, Sechu, Zubza.

11. The Dobashi's Court, Sechu, Zubza heard the matter and on 08.06.2023 passed the impugned Order to the effect that all the male members of the Saleo Clan can claim right over 50% of the undeveloped land by way of swearing customary oath with a stricture that if any male member failed to take the said oath swearing, then the whole land shall belong to the Neiyalie Clan. However, none of the members of the Saleo Clan took advantage of the Dobashi Court's Order dated 08.06.2023 and they did not come to swear any oath.

12. Being aggrieved by the decision of the Dobashi's Court dated

08.06.2023 the petitioner filed an appeal before the Deputy Commissioner, Kohima on 06.07.2023. The Deputy Commissioner, Kohima endorsed the matter to the Court of the SDO(C), Sechu, Zubza and the same was heard and disposed of by the Assistant to the Deputy Commissioner, Kohima/ SDO(C), Sechu on 19.02.2024.

13. Being aggrieved by the impugned Judgment and Order dated 19.02.2024, the petitioner had come before this Court.

14. Learned counsel for the petitioner, Mr. A. Zho has taken the following grounds to assail the Judgment of the SDO(C), Sechu, Zubza dated 19.02.2024 :-

(i) That the learned Court below after perusing the documents and title of the petitioner accepted and recognized the ownership of the petitioner for the last 100 years over the disputed land and yet the court upheld the decision of the Dobashi's Court which is erroneous and needs to be reversed.

(ii) The learned Court below, without assigning any reason has affirmed and confirmed the order of the Dobashi's Court passed on 08.06.2023 and, therefore, the Judgment dated 19.02.2024 is liable to be set aside.

(iii) That the learned Court below, after coming to a conclusion that the petitioner's family has been in occupation for over a 100 years could not have directed that the remaining undeveloped portion of the land, i.e., 2.5 acres be in a discourse between both parties or any disputed parties for any future avocation as per their customs and traditions. And therefore,

the said direction is not sustainable in the eye of law and is liable to be set aside.

(iv) The learned Court below, while pronouncing the impugned Judgment dated 19.02.2024 has not applied its mind judiciously and without citing any genuine and cogent reason for the decision, has simply affirmed the Judgment and Order passed by the Dobashi's Court and hence the impugned Judgment is perverse and liable to be quashed.

15. This Court has considered the submissions of the learned counsel for the petitioner and perused the impugned Judgment passed by the Dobashi's Court as well as the Judgment of the SDO(C), Sechu, Zubza passed in Pol. Case No. 3/2022. This Court has observed that the learned Court below had framed four questions to be decided:-

“i. Whether the Appellant is the rightful owner having all rights and title to the disputed plot of land?

ii. Whether the Respondent has claims over the disputed plot of land?

iii. Whether the Respondent can claim rights and title to the developed area of the appellant?

iv. Whether the Appellant without the consent of the Nipunuomia Clan will be allowed to sell out their land or houses?”

16. In considering the first question, the learned Court below came to a finding that the appellant/petitioner's family has been in occupation for

over 100 years developing and managing the disputed plot of land. The Court also held that it is clear and apparent that the respondent could have objected to the development activities of the appellant/petitioner for the past 100 years, however, no such claims or objections were raised or brought before any competent authority. The Court held that the developed area within the disputed land belongs to the appellant/petitioner since the appellant had incurred all the expenses over the developments. However, with regard to the second question, the learned Court below held that since both the parties in dispute do not possess any documentary evidence pertaining to the claims and, therefore, the remaining undeveloped portion of land being 2.5 Acres should be in a discourse between both parties for any future avocation as per customs and traditions. In this respect, this Court has seen that there is already a land possession certificate dated 16.09.2014 in favour of the petitioner and the same was also produced before the learned Court below and the learned Court at paragraph-3 of the impugned judgment has stated: "*3. That a land possession certificate dated 16.09.2014 along with sketch map of the disputed area was issued by the Revenue Officer, Kohima, Nagaland certifying that the Appellant is the absolute owner of the present disputed land which was also counter signed by the Chairman, Village Council, Sechü Zubza.*"

17. This Court is of the view that the learned Court below could not have come to a conclusion that there are no documentary evidence pertaining to the disputed plot of land as the land possession certificate dated 16.09.2014 was produced before the Court during the hearing and the said land possession certificate certifies that the appellant/petitioner is the

absolute owner of the present disputed land measuring 19.32 Acres at Tsuru Colony, Sechu, Zubza. Therefore, this Court is of the view that the finding that the appellant/petitioner is the owner of only the developed area within the disputed land is perverse and needs to be interfered with.

18. In view of the discussions made above and in view of the land possession certificate dated 16.09.2014 in favour of the petitioner which holds the field till date, the impugned Judgment and Order dated 19.02.2024 passed by the SDO(C), Sechu, Zubza and the Judgment dated 08.06.2023 passed by the Dobashi's Court in Pol. Case No. 3/2022 is quashed and set aside.

19. The petition is accordingly disposed of.

JUDGE

Comparing Assistant