



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

CRP 27(AP)/2015

Shri Karmi Riram,  
R/o :Eshi-Chiku Village,  
P.O./P.S.:- Basar,  
Dist- West Siang,  
Arunachal Pradesh.

....Petitioner

-Versus-

State of Arunachal Pradesh &Ors.

....Respondents

**BEFORE**

**HON'BLE MR. JUSTICE MIR ALFAZ ALI**

For the petitioner : Mr. M. Pertin, Sr. Adv.  
Mr. K. Dabi, Mr. C. Gongo, Mr. W. Sawin,  
Mr. H. Tayo, Mr. A. Kin, Mr. N. Hallang,  
Mr. J. Dulom, L. Perma, Mr. Advocates.

For respondent No. 3 : Mr. K. Tama, Adv.

Decided on : **02.04.2018**

**JUDGMENT AND ORDER (CAV)**

Heard Mr. K. Dabi, learned counsel for the petitioner and Mr. K. Tama, learned counsel for the respondent No. 3.

2. The challenge in this revision petition is to the order dated 18.8.2015 passed by Banggo Level Keba and the order dated 07.08.2015 passed by learned Additional Deputy Commissioner, Basar, West Siang District, Arunachal Pradesh.

3. The brief facts leading to the present civil revision are that respondent No. 6 obtained a loan of Rs. 25,000/- from the petitioner by executing a promissory note-cum-agreement on 27.08.2009 undertaking to repay the same with interest. As the respondent No. 6 failed to repay the loan within the stipulated time, he executed another agreement-cum-promissory note on 05.09.2010 assuring to repay the money on or before December, 2010. It was further stipulated in the said document, that in case of failure to repay the loan as per the agreement, the ownership of the land situated at Pagle-Hotum area belonging to the respondent No. 6 should stand transferred to the petitioner. The respondent No. 6 failed to repay the loan and also in violation of the condition of the loan agreement sold out the land to another person. The petitioner, therefore, approached the Additional Deputy Commissioner seeking relief.

4. The Addl. Deputy Commissioner by order dated 25.07.2014 referred the matter to village level keba for decision. Village level keba was held on 24.08.2014 and before the village level keba, the respondent No. 6 sought extension of time for repaying the loan amount and also agreed to give the land at Doyi Rike, in case of failure to repay the money. On such assurance, the village level keba allowed the prayer of the respondent No. 6 and by its decision dated 24.08.2014 held, that the respondent No. 6 shall return back the money on or before May, 2015 and in case of his failure to repay the money within the said period, the ownership of the land of respondent No. 6 at Doyi Rike would stand transferred to the petitioner automatically on expiry of the stipulated time for repayment of the loan. Even after expiry of the said time stipulated in the order of village keba, the respondent No. 6 failed to return the amount, and as such, the petitioner became the owner of the land at Doyi Rike

belonging to respondent No. 6. When the petitioner started to fence and develop the land, respondent No. 3 put up resistance and damaged the fencing erected by the petitioner. The petitioner lodged a complaint before the village authority and the village level keba by its decision dated 26.07.2015 decided the ownership of the land at Doyi Rike in favour of the petitioner. Thereafter, the petitioner suddenly received an order dated 07.08.2015, whereby the Addl. Deputy Commissioner constituted a Banggo Level Keba on the basis of a complaint of the respondent No. 3, and referred the dispute pertaining to the properties to the Banggo Level Keba.

5. Aggrieved by the said order, the petitioner approached the Addl. Deputy Commissioner and pleaded for recalling the order for referring the matter to Banggo Level Keba, as the matter was already decided by the village level keba. However, the Addl. Deputy Commissioner advised him to appear before the Banggo Level Keba. Accordingly, the petitioner appeared before the Banggo Level Keba and submitted a representation to the Banggo Level Keba raising objection challenging the jurisdiction of the Banggo level keba. However, despite such objection raised by the petitioner, the Banggo Level Keba proceeded with the matter and passed the impugned order dated 18.08.2015.

6. Thus, aggrieved by the order of the Addl. Deputy Commissioner referring the dispute to the Banggo Level Keba and also the decision of the Banggo Level Keba, the petitioner preferred the instant revision petition.

7. Learned counsel for the petitioner, Mr. K. Dabi submits, that the dispute relating to property having been decided by the village authority (Keba), such order of the keba was amenable to appeal as per Section 46 of the Assam Frontier (Administration of Justice) Regulation, 1945 (for short Regulation, 1945). It is further contended by the learned counsel for the petitioner, Mr. Dabi, that the Regulation does not recognize the Banggo Level Keba and as such, it has no jurisdiction to deal with the civil dispute. It is also contended by the learned counsel, that though Banggo level keba is not recognized by the Regulation, such keba, even, if, assumed to be a village authority, such Banggo Level Keba not being an appellate authority in respect of the decision rendered by village level keba, cannot reopen the issue,

which was already decided by the village level keba and the only remedy for the aggrieved party was to prefer an appeal under Section 46 of the Regulation, 1945. In support of his submission, learned counsel placed reliance on a decision of this court in *Muluk Yomgam-VS- Damli Yomcha & Ors.*, reported 2016 (3) GLT 344, wherein this court held as under :-

*"Thus, it appears from the aforesaid provisions that the village authorities had the jurisdiction to try the suits when both the parties are indigenous and have been living within their jurisdiction. There is no provision for referring dispute to DLK/authorities. When a suit is filed before the Deputy Commissioner, Aalo, he can try the suit himself, he can refer the matter to the village authorities if both the parties are indigenous and the village authorities have territorial jurisdiction as well as pecuniary jurisdiction over the matter. The Deputy Commissioner can also refer the matter to arbitration in terms of Section 38 and the matter can be referred to arbitration if the parties agree and each party then shall have to nominate an equal numbers of members of Panchayats and a further person as Umpire.*

*Thus, the statute provides 3-tier jurisdiction of Civil Courts as per the Regulation of 1945, as discussed earlier. The DLK cannot derive jurisdiction or in other words, the Deputy Commissioner, Aalo, cannot confer jurisdiction to the DLK apart from the statute."*

8. Refuting the submission of the learned counsel for the petitioner, learned counsel for the respondent, Mr. K. Tama submits, that Banggo Level Keba is recognized by the guidelines issued by the Government for appointment of Gaonburah and Head Gaonburah. It is submitted, that though the Regulation 1945 is not clear as regards the categories of village authorities, the guidelines issued by Government for appointment of Gaonburah and Head Gaonburah lays down the provision for village keba, Banggo Level Keba and district level keba. Since Banggo Level Keba is recognized by the guidelines of the Government, the order passed by the Addl. Deputy Commissioner referring the matter to Banggo Level Keba and consequently, the order passed by the Banggo Level Keba cannot be held to be without jurisdiction. To buttress his submission, learned counsel placed reliance on a decision of this court rendered in CRP No. 27 (AP)/2011, on 08.11.2013, wherein this court held as under :-

*“A reading of the Regulation of 1945, more particularly, Regulation 5, would show that the village authority has not been particularly defined. A joint reading of the Regulation 1945 and the guidelines of appointment of GoanBurah circulated by the circular on 27<sup>th</sup> February, 2001 shows that the Head GoanBurah, GoanBurah are appointed under Section 5 of the Regulation of 1945 and they exercise the power of village authority as prescribed under the Act.*

*Under the guidelines for appointment of GoanBurah at guidelines 7 (j) the recognition of the keba is also shown to settle the cases in the village level, BanggoKebaleverl and thereafter, circle level/sub-division level and district level.”*

9. Section 46 (1) of the Regulation 1945 provides that any person aggrieved by a decision of a village authority may appeal to the [Assistant Commissioner] in suits not exceeding Rs. 50,000/- in value and to the [Deputy Commissioner] in suits exceeding that value. Section 47 of the Regulation 1945 provides that an appeal shall lie to the [Deputy Commissioner] from any decision, original or appellate, of an [Assistant Commissioner].

10. What is therefore, abundantly clear from the Section 46 and 47 of the Regulation 1945 is that any person aggrieved by a decision of the village authority shall have the right to prefer an appeal before the Assistant Commissioner as well as to the Deputy Commissioner depending on the value of the subject matter. As observed by this Court in CRP 27(AP)/2011, though the village authority has not been specifically defined in Section 5 of the Regulation 1945, the guidelines for appointment of Goanburahs have recognizes the various village level authorities, namely, Banggo level keba, village level keba, circle level keba/sub-division level Keba and district level keba. Therefore, various level of village authorities, as recognized by the aforementioned guidelines, though not provided in the Regulation 1945, cannot be held to be illegal or without authority, reason being that such guidelines are not contrary to the Section 5 of the Regulation 1945, rather supplementing to the Section 5 of the Regulation 1945 as the village authority has not been adequately defined by the regulation as observed by the learned Single Judge.

11. Sub-clause (j) of clause 7 of the guidelines for appointment of Goanburah under the headings "Power (On Civil Justice)" provides that the case which could not be settled in the village level keba may be referred to the Banggo Level Keba and if the Banggo Level Keba also fails to settle the matter, the same may be referred to Circle Level/sub-division level and then to district level. A conjoint reading of Section 5, 46 & 47 of the Regulation as well as sub-clause (j) of clause 7 of the aforementioned guidelines for appointment of Goanburahs and Head Goanburahs relating to (power on civil justice) would show that various level of village authorities i.e. village level keba, Banggo level keba, circle level keba etc. shall come within the umbrella of the "village authority" as envisaged by Section 5 of the Regulation 1945. Therefore, necessarily the hierarchy of keba recognizes by the guidelines, coming within the purview of the definition of "village authority", any decision rendered by the keba of any level (village authority) shall be appealable under the provision of Regulation 46 of the Regulation, 1945.

12. The language of the clause 7 (j) of the guidelines for appointment of Goanburahs also makes it abundantly clear, inasmuch as, the clause 7(j) of the aforementioned guidelines does not provide for any appellate authority. Clause 7 (j) of the guidelines only provides that when the village level keba fails to decide the matter, the same can be referred to the Banggo Level Keba and when Banggo Level Keba fails to decide or settle the matter, the same may be referred to the next higher level keba. Once the matter is decided or settled by the "village authority" at any level, such decision of the village authority, be it village level keba or Banggo Level Keba or circle level keba, the next forum for appeal shall be as per the provision of Section 46 of the Regulation 1945.

13. In the instant case, apparently, the civil dispute relating to right over land was already decided by the village level keba and such decision was amenable to appeal u/s 46 of the Regulation. Even the clause 7 (j) of the guidelines does not provide for re-consideration of any decision rendered by a lower level keba or by a higher level keba. Referring a dispute from village level keba to Banggo Level Keba or Banggo Level Keba to the next higher level keba is permissible only when the concerned keba is unable to settle the matter. In the present case, since the matter

was already decided and settled by a village authority, there was no scope for the Addl. Deputy Commissioner for referring the matter again to another village authority for decision, as the decision rendered by the village authority was amenable to appeal. Had the village level keba failed to settle or decide the dispute, the matter, perhaps, could have been different. Since the matter was once decided by the village authority, there was no scope for referring the same to village authority again.

14. In the above view of the matter, the impugned order dated 07.08.2015 passed by the Addl. Deputy Commissioner referring the matter to Banggo Level Keba as well as the decision of the Banggo Level Keba appear to be illegal, as the matter having been decided by the village authority, the same could not again be referred to another village authority.

15. In view of the above facts and circumstances, this court is of the view that the impugned order passed by the Addl. Deputy Commissioner and also the Banggo Level Keba were without jurisdiction and deserves to be quashed. Accordingly, the impugned orders passed by Addl. Deputy Commissioner and also Banggo Level Keba are hereby set aside. It is however, made clear that the party aggrieved by the decision of the village authority (village level keba) shall be at liberty to challenge such decision by way of appeal provided under Regulation 46 of the Regulation, 1945.

16. In view of the forgoing discussions, the revision petition is allowed and the impugned order 18.8.2015 passed by learned Banggo Level Kaba and the order dated 07.08.2015 passed by learned Additional Deputy Commissioner, Basar, West Siang District, are set aside. No cost.

JUDGE