

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

ITANAGAR PERMANENT BENCH, NAHARLAGUN

CRP No. 09(AP)2015

1. Shri Nyakar Rakshap, S/o Late Kinya Raksap, Permanent resident of Village Baru Rakshap, under Darak Circle, P.O Darak, P.S Kamba, District West Siang Arunachal Pradesh and presently residing at Nyirmen Putu Colony, P.O/P.S-Aalo, West Siang District, Arunachal Pradesh.

....Petitioner

-VERSUS-

- 1.** The Extra-Assistant Commissioner, Tirbin, P.O/P.S Tirbin, District West Siang, Arunachal Pradesh.
- 2.** Shri. Kanya Doke, Resident of Village Dupu, P.O Payum, P.S. Kaying, District West Siang, Arunachal Pradesh.

.....Respondents

**BEFORE
HON'BLE MR. JUSTICE NANI TAGIA**

Advocate for the Petitioner : Ms. N. Danggen
Advocate for the Respondents : Mr. D. Soki, G.A
Shri J. Jini, Respondent No. 2.

Date of hearing & Judgment: 20-08-2019

JUDGMENT & ORDER(ORAL)

Heard Ms. N. Danggen, learned counsel for the petitioner. Also heard Mr. D. Soki, learned Addl. Sr. Govt. Advocate for the respondent No. 1 as well as Mr. J. Jini, learned counsel for the respondent No. 2.

2. This Revision petition has been filed challenging the order dated 20.04.2015 passed by the learned Additional District and Sessions Judge, Basar in BSR/MS-03/15, by which order, the case between the respondent No. 2 and the petitioner has been transferred back to Extra-Assistant Commissioner, Tirbin, West Siang District, with a direction to try and settle the matter through local Keba; and, also the WT Message dated 12.05.2015, issued by the Extra-Assistant Commissioner, Tirbin, West Siang District vide Memo No. TBN/JDL-02/15-16, by which, the petitioner was directed to attend Keba hearing in connection with monetary loan case with the respondent No. 2 on 21.05.2015.

3. The facts leading to filing of this Revision petition is as follows:

The respondent No. 2, on 23.02.2015, had approached the EAC, Tirbin, West Siang District praying for settlement of case between the respondent No. 2 and the petitioner on account of the petitioner having taken a loan of Rs. 18,00,000/- (Rupees Eighteen Lakhs). On appearance made by the petitioner, the EAC, Tirbin, West Siang District by an order dated 30.03.2015, vide Memo No. TBN-JDL-05/15-16/5042, had transferred the case between the respondent No. 2 and

the petitioner to the Court of the learned Additional District and Sessions Judge, West Siang District, Basar. On receipt of the case transferred from the EAC, Tirbin, West Siang District, the learned Additional District and Sessions Judge, West Siang District, Basar by the impugned order dated 20.04.2015, on consideration of the matter, had again transferred back the case to the EAC, Tirbin, West Siang District, with a direction to try and settle the case through local Keba. In pursuance thereof, the EAC, Tirbin, West Siang District by a WT Message dated 12.05.2015, had directed the petitioner to attend Keba hearing, in connection with monetary loan case with the respondent No. 2 on 21.05.2015.

4. Ms. N. Danggen, learned counsel for the petitioner, challenging the impugned order dated 20.04.2015, passed by the Additional District and Sessions Judge, Basar as well as the WT Message dated 12.05.2015, issued by the Extra-Assistant Commissioner, Tirbin, West Siang District, submits that the Court of the Additional District and Sessions Judge cannot, under the law, constitute Keba and therefore, the EAC, Tirbin, West Siang District also could not have directed the petitioner to attend to the Keba hearing in pursuance of the illegal order passed by the Additional District and Sessions Judge, Basar dated 20.04.2015.

5. On the other hand Mr. J. Jini, learned counsel representing the respondent No. 2 submits that as the petitioner had taken a loan of Rs. 18,00,000/- (Rupees Eighteen Lakhs) from the respondent No. 2, the matter needs to be resolved by the Keba. However, as the respondent No. 2 and the petitioner are from two different circles/villages, the respondent No. 2 had no other option but to approach the EAC, Tirbin, West Siang District for constitution of an appropriate Keba for resolution of the dispute between the respondent No. 2 and the petitioner. Mr. Jini, learned counsel for the respondent No. 2, further, submits that the respondent No. 2 cannot be left without any remedies and therefore, the constitution of Keba for the

resolution of the monetary loan dispute between the respondent No. 2 and the petitioner is perfectly in order.

6. The rival submissions advanced by the respective counsels have received due consideration of this Court.

7. Although "village authority" is a forum recognised under the Assam Frontier (Administration of Justice) Regulation, 1945 for resolution of a civil/criminal dispute between the parties, yet, under the 1945 Regulation, the manner and also the place to approach the village authority for resolution of a civil/criminal dispute by the parties have not been specified. Admittedly no any office/establishment of the "village authority" have been setup to enable the litigants to approach/file applications for resolution of disputes by the litigating parties. It was in that context that the respondent No. 2 seems to have approached the EAC, Tirbin, West Siang District for constitution of a village authority under the Assam Frontier (Administration of Justice) Regulation, 1945 for resolution of the monetary loan dispute between the respondent No. 2 and the petitioner. It is also found that the Court of the learned Additional District Judge has not been authorised under the Assam Frontier (Administration of Justice) Regulation, 1945 to constitute a village authority.

8. In such a situation obtaining under the provision of Assam Frontier (Administration of Justice) Regulation, 1945, as have been narrated herein above, this Court deems it appropriate to dispose of this Civil Revision Petition by setting aside the impugned order dated 20.04.2015 passed by the Additional District and Sessions Judge, Basar in BSR/MS-03/15 and the WT Message dated 12.05.2015, issued by the Extra-Assistant Commissioner, Tirbin, West Siang District vide Memo No. TBN/JDL-02/15-16 by granting liberty to the respondent No. 2, to approach the appropriate forum as it may deem fit to the respondent No. 2 for securing the loan advanced by the respondent No. 2 to the petitioner, which I do hereby.

9. In the event of the respondent No. 2 approaching the appropriate forum for securing the loan advanced to the petitioner by instituting a suit or otherwise, the period spent on and from 23.02.2015, which is the date the respondent No. 2 had first approached the EAC, Tirbin, West Siang District for constitution of Keba, shall not be computed for the purpose of limitation.

10. The Civil Revision petition is **disposed of** in terms above.

JUDGE

Victoria