

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA
MIZORAM AND ARUNACHAL PRADESH)
ITANAGAR PERMANENT BENCH
NAHARLAGUN

Appeal from
Writ Petition (Civil)

Cyl. Revn. Pn. No. 13 (AP) 2010

Shri Hari Taro

Appellant
Petitioner

-Versus-

Shri Golo Bagang & 10 others.

Respondent
Opposite Party

Counsel for the Appellant Mr. S. Tapin
Petitioner Mr. P. Bui

Counsel for the Respondent
Opposite Party

P.P. (AP)
Mr. P. Tafto sle for R/No 11

MR N. Taje

" D. Gumbo

" T. Taluk

for Respondent No 1, 2, 4, 5, 6, 9 & 10

Noting by Officer or Advocate	Serial No.	Date	Office, note, reports, orders or Proceeding with signature
(1)	(2)	(3)	(4)

disq

IN THE MATTER OF:

Shri Hari Taro, aged about 51 years,
son of Lt. Hari Tayam, 6 Km, Itanagar,
P.O & P.S Itanagar, Papumpare District,
Arunachal Pradesh.

– **Petitioner.**

-VERSUS-

1. Shri Golo Bagang,
TV Centre Colony, Itanagar,
P.O & P.S Itanagar, Papumpare District,
Arunachal Pradesh.
2. Smti Gollo Yamiang
TV Centre Colony, Itanagar,
P.O & P.S Itanagar, Papumpare District,
Arunachal Pradesh.
3. Shri Gollo Kakak
TV Centre Colony, Itanagar,
P.O & P.S Itanagar, Papumpare District,
Arunachal Pradesh.
4. Shri Gollo Tadung
TV Centre Colony, Itanagar,
P.O & P.S Itanagar, Papumpare District,
Arunachal Pradesh.
5. Shri Gollo Tagung
TV Centre Colony, Itanagar,
P.O & P.S Itanagar, Papumpare District,
Arunachal Pradesh.
6. Shri Gollo Takek
TV Centre Colony, Itanagar,

- P.O & P.S Itanagar, Papumpare District,
Arunachal Pradesh.
7. Shri Gollo Tami
TV Centre Colony, Itanagar,
P.O & P.S Itanagar, Papumpare District,
Arunachal Pradesh.
8. Shri Gollo Lalling
TV Centre Colony, Itanagar,
P.O & P.S Itanagar, Papumpare District,
Arunachal Pradesh.
9. Smti Likha Yalok [Ringkak]
TV Centre Colony, Itanagar,
P.O & P.S Itanagar, Papumpare District,
Arunachal Pradesh.
10. Shri Gollo Rangte
TV Centre Colony, Itanagar,
P.O & P.S Itanagar, Papumpare District,
Arunachal Pradesh.
11. The State of Arunachal Pradesh
represented by the Secretary, Urban
Development Department, Govt. of Arunachal
Pradesh, Itanagar.

-Respondents.

BEFORE
THE HON'BLE MR. JUSTICE P K MUSAHARY

03.01.2011

Heard Mr. S. Tapin, learned for the petitioner. Also heard Mr. P. Taffo, learned standing counsel, for respondent No. 11(Secretary, Urban Development Department, Government of Arunachal Pradesh, Itanagar) and Mr. N. Taje, learned counsel appearing for other respondents.

At the very outset, Mr. Taje, learned counsel, submits that private respondents No. 3 and 6 are the same person and private respondents No. 7 and 8 have already expired.

By filing this petition, the petitioner has challenged the order dated 05.10.2010 passed by the learned Circle Officer(LD), Itanagar Capital Complex, Naharlagun, whereby the parties have been directed to stay out of the Government land to avoid penal action. Mr. Tapin, learned counsel, submits that this impugned order has an implication of declaring title in favour of respondents, particularly respondent No. 11 and as such, the same is liable to be set aside and quashed. Moreover, it has been submitted that the aforesaid impugned order was passed without giving any due opportunity of hearing to the petitioner to establish his title and possession over the land in question.

It is in agreement by the learned counsel appearing for the parties that the Circle Officer(LD), Itanagar Capital Complex, Naharlagun, who is exercising the power of Magistrate has no power to declare title in favour of any party while dealing with the proceeding under Section 145 of the Code of Criminal Procedure, 1973. The parties are also in agreement that the matter may be remanded back to the Circle Officer concerned to decide the possession over the land in question after giving due opportunity of hearing to all the parties concerned.

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Considering the consensus arrived at by the learned counsel appearing for the parties, the impugned order dated 05.10.2010 (Annexure-P/5 to the petition) passed by the learned Circle Officer(LD), Itanagar Capital Complex, Naharlagun,, is set aside and quashed. The matter stands remanded back to the Circle Officer(LD), Itanagar Capital Complex, Naharlagun, for disposal after giving due notice and opportunity of hearing to all the parties concerned to decide the question of possession over the land in dispute without deciding the right, title and interest.

The petitioner shall furnish a certified copy of this order to the learned Circle Officer(LD), Itanagar Capital Complex, Naharlagun, who, on receipt of the same, shall issue notice to all the parties concerned affording due opportunity of hearing and shall dispose of the matter within a period of 60(sixty) days from the date of receipt of a certified copy of this order.

It is needless to say that the status-quo as on today in regard to the possession of the land in question shall be maintained till disposal of the matter.

The petition accordingly stands disposed of.


JUDGE

Bikash