

**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)

WP No. 12 (AP) 2011

Mr. Kenli Nyorak  
-Versus-  
State of AP & F&C.

Appellant  
Petitioner

Respondent  
Opposite Party

Counsel for the Appellant  
Petitioner

K. Jini  
P. Kamduk  
T. Gadi  
D. Loyi  
T. Doye

Counsel for the Respondent  
Opposite Party

GA (AP)

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

IN THE MATTER OF:

Mr. Kenli Nyorak

S/O Late Moken Nyorak Village

Nyorak PO/PS Aalo, West Siang

District, Arunachal Pradesh.

..... Petitioner

-VERSUS-

1. The State of Arunachal Pradesh,  
represented Chief Secretary,  
Government of Arunachal Pradesh

2. The Deputy Commissioner,  
West Siang District, Aalo.  
Arunachal Pradesh

3. The Circle Officer (Keba)  
Deputy Commissioner's office.  
District West Siang, Aalo,  
Arunachal Pradesh

4. The Executive Engineer,  
PWD, Division Aalo, P.O/P.S- Aalo,  
District- West Siang , Arunachal  
Pradesh.

5. The District Medical Officer,

West Siang District, P.O- /P.S-  
Aalo, Arunachal Pradesh

6. Mr. Gekir Ori

Village Yigi Kaum, PO/PS Aalo,  
West Siang District, Arunachal  
Pradesh.

7. Tokar Mayi

Village Nyorak, PO/PS Aalo, West  
Siang District, Arunachal Pradesh.

8. Mr. Limar Nyorak,

Village Nyorak, PO/PS Aalo, West  
Siang District, Arunachal Pradesh.

..... Respondents

**BEFORE**  
**THE HON'BLE MR. JUSTICE P.K.MUSAHARY**

*[11<sup>th</sup> January, 2011]*

Heard Mr. K. Jini, learned counsel for the petitioner and also heard Ms. G. Deka, learned Addl. Sr. Govt. Advocate, appearing for the official respondents.

The petitioner claims that he is in peaceful possession of the land known as gune land at Nyorak village. Adjacent to his said land, there is a plot of land belonging to the respondent No.8 over which, the Health Department is constructing "Health Unit" through the Public Works Department and the contract work was awarded to the respondent No.6. While constructing the "Health Unit" aforesaid, the respondent No.6, has encroached some portion of the land in the gune land, belonging to the petitioner.

It may be noted that before the aforesaid complaint, the village level "Keba" was held on 11-10-2010 and a decision was taken to the effect that the land donation made by the respondent No.8 to respondent No.6 has been affirmed. Against the aforesaid "Keba" decision, the petitioner filed an appeal before the learned Deputy Commissioner, West Siang District, Aalo on 12-11-2010.

The aforesaid appeal is still pending before the learned Deputy Commissioner for disposal. In the meantime, the respondent-Deputy Commissioner has passed the impugned order dated 29-12-2010 (Annexure-16 to the writ petition) allowing the respondent No.6 to continue with the construction work of "Health Sub-Centre" building at Nyorak

village. The aforesaid order is under challenge in this writ proceeding.

On perusal of the documents placed by the petitioner and also upon hearing the learned counsel for the parties, I am of the considered view that the matter involves some disputed facts in regard to the land in question. It has to be enquired and found as to whether the respondent No.6 has constructed the "Heath Sub-Centre" at Nyorak village by encroaching upon a portion of the land of the petitioner. It is an admitted position that no such inquiry has been made by the learned Deputy Commissioner or his subordinate Officer and without making such inquiry, the impugned order has been passed allowing the respondent No.6 to continue the construction work. On the other hand, it is also an admitted position that an appeal filed by the present petitioner is still pending before the learned Deputy Commissioner, Aalo for disposal.

I have perused the order dated 15-12-2010 (Annexure-14 to the writ petition) passed by the learned Deputy Commissioner, Aalo, wherefrom it appears that a date was re-fixed on 20-12-2010 for holding the "Keba" but there is nothing on record as to whether the "Keba" was held on 20-10-2010 as directed by the respondent-Deputy Commissioner.

Considering the aforesaid facts and circumstances of the case, it is deemed fit and proper to direct the respondent-Deputy Commissioner, Aalo to hear the aforesaid appeal and dispose of the same in accordance with law after giving opportunity of hearing to the parties concerned.

The whole exercise shall be completed within a period of 2(two) months from today. Till disposal of the aforesaid appeal, the operation of the impugned order dated 29-12-2010 shall remain suspended. The learned Deputy Commissioner shall pass necessary order for restraining the construction work till disposal of the appeal.

With the above observations and directions, this writ petition stands disposed of.

  
**JUDGE**

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