

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

**ITANAGAR PERMANENT BENCH**

**CRP 9(AP)/2017**

1. Mr. Taging Pangkak,  
S/o Late Akkong Pangkak,  
R/o Komkar (Rasing) Village,  
P.O. & P.S.- Yingkiong Upper Siang District,  
Arunachal Pradesh.

.....Petitioner

-Versus-

1. The Deputy Commissioner,  
Upper Siang District Yingkiong,  
Arunachal Pradesh.  
2. Sri Katan Tasin,  
S/o Sri Atting Tasin,  
R/o Gette Village,  
P.O. Gegu, P.S. Yingkiong Upper Siang District,  
Arunachal Pradesh.

.....Respondents

**BEFORE  
HON'BLE MR. JUSTICE KALYAN RAI SURANA**

Advocates for the Petitioners : Mr. N. Pada, Mr. K. Darang, Y. Pada.

Advocates for the Respondents : Mr. J. Bagra, Ms. N. Anju Mr. B. Taka.

Date of hearing & Order : 15.05.2017.

### **JUDGMENT AND ORDER (ORAL)**

Heard Mr. N. Pada, learned counsel for the petitioner. Also heard Mr. A. Apang, learned Senior counsel appearing for the respondent No. 2 as well as Ms. R. Basar, learned State Govt. counsel appearing for the respondent No. 1.

2) By filing this application under Section 50 of the Assam Frontier (Administration of Justice) Regulation, 1945, the petitioner has challenged the order dated 26.10.2016 passed by the learned Deputy Commissioner, Upper Siang District Yingkiong.

3) The relevant facts required for the purpose of this order is that one Ms. Omen Pangkak had died an un-natural death on 16.07.2016 by hanging in a rented house, which she was sharing with her male friend, namely, Sri Katang Tasin. Thereafter, a Kebang was held for two days from 02.10.2016 to 03.10.2016, which was conducted as per the provisions of the Assam Frontier (Administration of Justice) Regulation, 1945. However, there was a commotion in the said Kebang for which, the Kebang ended without recording any written decision. Aggrieved by the same, the petitioner herein filed an appeal before the District Deputy Commissioner, Upper Siang District, Yingkiong on 17.10.2016 for a fresh kebang under his direction. On receipt of the said appeal, the learned Deputy Commissioner, Upper Siang District, Yingkiong forwarded the said application to the Extra Assistant Commissioner, Geku. Thereafter, the Extra Assistant Commissioner, Geku by an order dated 20.10.2016 directed that a Kebang be held in the Community Hall, Geku on 28.10.2016. Pursuant to the same, notices were issued on the respondent No. 2, wherein his name was miss-spelt as Tatan Tasin to attend the Kebang on 28.10.2016. Later on by a fax message dated 26.10.2016, the learned Deputy Commissioner, Upper Siang District, Yingkiong had cancelled the local Kebang on the ground that the matter of the un-natural death of Late Omen Pangkak is sub-judice and registered in the Court of learned Judicial Magistrate, First Class as UD Case No. 2/2016 under Section 174 of the Criminal Procedure Code, for which a local Kebang cannot be conducted for the same case while it is sub-judice in the Court. The petitioner is aggrieved by the said subsequent order dated 26.10.2016 passed by the learned Deputy

Commissioner, Upper Siang District, Yingkiong, by which the proceeding of Kebang stated to be held on 28.10.2016, was stayed.

4) The learned counsel for the petitioner by referring to the statement made in the paragraph 9 of the revision petition submits that the nature of dispute sought to be raised in the Kebang dated 28.10.2016 was of civil nature, and relating to alimony and property between the respondent No. 2 and the deceased. It is submitted that the disputes sought to be raised in the Kebang has nothing to do with the un-natural death of Late Omen Pangkak (who as the daughter of the petitioner). It is also submitted that as issues before the learned Judicial Magistrate, First Class was distinct from the matters sought to be raised in the Kebang, the learned Deputy Commissioner (respondent No. 2 herein) had no jurisdiction or power to stay the Kebang.

6) Per-contra, the learned Sr. counsel for the respondent No. 2 submits that under the provisions of Regulation 19 of the Assam Frontier (Administration of Justice) Regulation, 1945, the village authority (Kebang) is not authorized to adjudicate upon any matter falling outside the purview of the said regulation. In order to appreciate the said argument, it would be pertinent to extract the said Regulation 19 below:

*"19. The village authorities may try any case involving any of the under mentioned offences in which the person or persons accused is or are resident within their jurisdiction:-*

*Theft, including theft in a building.*

*Mischief, not being mischief by fire or any explosive substance.*

*Simple hurt.*

*Criminal trespass or house trespass.*

*Assault or using criminal force."*

7) The learned Sr. counsel for the respondent No. 2 further submits that the respondent No. 2 is not averse to the holding of the village Kebang on matters which are totally outside the jurisdiction of the learned Judicial Magistrate, First Class. In other words he submits that the respondent No. 2 cannot be subjected to double jeopardy by

facing a criminal prosecution before the Competent Court, if at all any incriminating material is found against him in the investigation or trial, and also to face a village authority in the Kebang for being subjected to face even their judgment on the same issue, which is pending before the learned Judicial Magistrate, First Class, as there cannot be two parallel trial for the same matter.

8) At this juncture, the learned counsel for the petitioner submits that without entering into any disputed facts at this stage in this revision, he wants to concede that if a Kebang held before the village authority in accordance with the provisions contained in the Regulation of 1945, the petitioner would not raise any issue, which is pending for adjudication before the Court of learned Judicial Magistrate, First Class, in connection with UD Case No. 2/2016. This Court on appreciating the statements made in paragraph 9 of the revision has taken note the statements made therein to the effect that the *"subject matter/issue of the Kebang dated 28.10.2016 of civil nature is as much as the dispute relating to alimony and property between the private respondent herein and the deceased Late Omen Pangkak pending even before the death of the deceased."*

9) In view of the concessions given by learned counsel for both the sides that in the proposed Kebang, no matter which is sub-judice in the said UD Case No. 2/2016 would be raised or allowed to be raised, this Court is inclined to set aside the fax/W.T. message dated 26.10.2016 issued by the learned Deputy Commissioner, Upper Siang District, Yingkiong, under memo No. GCK/1/2009 dated 26.10.2016 by directing the said authority to issue a fresh direction to the Extra Assistant Commissioner, Geku to permit the said authority to convene the Kebang on such date as it may deem fit, by further indicating that the Kebang shall not permit any matter to be raised therein which is directly connected or will affect in any manner to the proceedings of UD Case No. 2/2016, which is pending for disposal before the learned Judicial Magistrate, First Class, Upper Siang District, Yingkiong.

10) This revision is, therefore, allowed to the extent and on condition as indicated above.

11) The parties are left to bear their own cost.

**JUDGE**

*Mkumar*