



IN THE GAUHATI HIGH COURT  
(HIGH COURT OF ASSAM: NAGALAND: MIZORAM AND ARUNCHAL PRADESH)  
ITANAGAR PERMANENT BENCH 999+

CRP 16 (AP) 2016

Appeal From  
Writ Petition (Civil)

Appellant  
Petitioner.

**SHRI HORJUM LOLLEN**

----VERSUS----

Respondent  
Opposite Party

~~SHRI DUDA LOLLEN~~

SHRI DAGO LOLLEN

Counsel for the Appellant  
Petitioner

K. JINI  
T. GADI  
D. LOYI  
B. PICHA  
S. KETAN  
J. JINI  
G. BAM  
M. RIME

Counsel for the Respondent K. Lollen  
Opposite Party

Noting by Officer or Advocate	Serial	Date	Office not, reports, orders or proceeding with signature
(1)	(2)	(3)	(4)

-AND-

IN THE MATTER OF:

Shri Horjum Lollen,  
S/o Late Muksor Lollen, a resident of  
village Kombo Tarsu Mobuk, PO & PS  
Aalo, West Siang District, Arunachal  
Pradesh.

..... Petitioner

-VERSUS-

✓ Shri Duda Lollen,  
a resident of village Kombo Tarsu-  
Mobuk, PO & PS Aalo, West Siang  
District, Arunachal Pradesh.

..... Respondent

Substitute the  
Respondent name  
Sri Dago Lollen  
vide order dated  
on 14/12/2016.

✓  
FR  
kll

**ITANAGAR PERMANENT BENCH**

**C.R.P. No. 46(AP)/2016**

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

**ORDER**

**11-05-2017**

Heard Mr. D. Loyl, learned counsel for the petitioner as well as Mr. K. Lollen, learned counsel for the sole respondent.

2) The brief facts of this revision petition is that pursuant to the directions issued by the learned Deputy Commissioner, West Siang District, Aalo vide an Order bearing No. AR-9/TS "KON GIDA" dated 12.1.2016 held that the Head Gaonburah of village- Kombo Tarsu would arrange a Keba in connection with the dispute between the parties herein, subject to an undertaking by the petitioner before the Deputy Commissioner, Aalo that he would appear before the village authority on the date fixed for hearing. The Keba so organized by an order dated 11.2.2016 upheld the previous Keba order dated 18.11.15 and affirmed the boundary as demarcated on 18.11.15. Thereafter, the petitioner by a letter dated 23.2.2016 informed the Head Gam of the village of Kon-Gida that he did not agree with the decision of Keba taken on 19.2.16 and also informed about the non-acceptance of Keba decision and intimation to file an appeal. This was followed by a letter to the Deputy Commissioner, West Siang District, Aalo under the heading – *"Compliant against the village authority of Kombo Tarsu for conducting the land dispute, Keba between Horjum Lollen versus Duda Lollen without visiting the disputed land, while the owner and parties repeatedly requested them to visit the disputed land. And prayer for issue appropriate direction or order for conduct of Keba at the disputed site by re-demarcate the land as per the original record"*. This was followed by another letter dated 25.7.16 to the Deputy Commissioner, West Siang District, Aalo under the heading *"Objection against the illegal decision passed by the village authority of*

*Kombo Tarsu Mobuk In land dispute case between Horjum Lollen versus Duda Lollen and appeal for take up the matter in Appellate forum for final disposal of the matter". As an enclosure to the said objection dated 25.7.26, there was a letter written by one Sri Gedo Lollen , who is stated to be the seller of the disputed land, stating therein that the Keba Members did not allow him nor one Sri Ligo Lollen to show the actual boundary of the land in question. However, the learned Deputy Commissioner, West Siang District, Aalo by the Order bearing No. AR-9-TS 'KON GIDA' dated 16.8.2016, rejected the complaint filed against the village authority Keba decision, as being devoid of merit. The order so passed by the said authority is quoted here-in-below for ready reference:*

*"To  
Shri Horjum Lollen,  
Village Tarsu Mobuk,  
PO/PS Aalo,  
West Siang District (AP)*

*Whereas, you have filed an appeal petition to the Deputy Commissioner, Aalo against the village Authority Keba decision in the matter of money lending case and land dispute in between you and Shri Duda Lollen of Kombo Tarsu Mobuk.*

*Whereas, on perusal of case records your appeal petition filed against the village Authority keba decision not found genuine on the following grounds:-*

*I) Whereas, you have not filed notice of intention to appeal before the village Authority keeping the provisions of U/S 45(2) of AFR 1945.*

*II) Whereas, you have lodged a complaint against the village Authority decision, which is not just, as there is no provision of complaint against the village Authority in the AFR 1945 which governs local cases. Rather you should have been filed an appeal petition against the village Authority decision keeping the due procedure under the provision of AFR 1945.*

*III) Whereas, on perusal of village Authority keba decision Shri Gedo Lollen from whom you have purchased the disputed*

*land stated before the village Authority, that boundary of the disputed land settled by the village Authority is correct as there is no altercation/tempering of the boundary as claimed by you.*

*In the light of above facts and circumstances, your complaint filed against the village Authority keba decision without merit is hereby rejected.*

*Sd/-  
Deputy Commissioner,  
West Siang District, Aalo,  
Dated Aslo the 16/08/2016"*

3) The learned counsel for the petitioner submits that the learned Deputy Commissioner had arbitrarily, mechanically and illegally rejected the said appeal on non-sustainable grounds, which are, firstly, that the intimation of appeal was duly submitted before the appellate authority on rejection of his complaint and secondly, the appeal was nomenclatured as a complaint instead of being addressed as an appeal. In this regard, it is submitted that although he had submitted not only the said appeal in the form of a complaint but also he had filed a separate objection about against the decision taken by the village authority Keba and therefore, there was due compliance of the provisions of appeal as provided under Regulation 46 of the Assam Frontier (Administration of Justice) Regulations, 1945 (for short, 'the Regulation of 1945'). It is further submitted as regards the ground No.3 of the impugned order dated 16.8.2016 that in a mechanical manner, merely on the perusal of the village Authority Keba decision, Sri Gedo Lollen from whom the disputed land was purchased had stated that the boundary of disputed land as settled by the village Authority Keba was correct and there was no alteration/tempering of the boundary. However, the said finding was arrived at without hearing the petitioner and without allowing him any opportunity to argue or to prove his case. Hence, aggrieved by the aforesaid order dated 16.8.2016, this revision has been filed.

4) Per contra, learned counsel for the respondent has argued in support of the impugned order and submits that as there was non-compliance of the Regulation 46 of the Regulation of 1945 in filing of the complaint/oral objection as projected by the petitioner, it cannot be accepted to be an appeal. He, therefore, submits that this revision should be dismissed.

5) Therefore, the short question involved in this revision is whether a defect in the form to file an appeal before the appellate authority under Regulation 46 of the Regulation of 1945 vitiates the appeal and justifying the dismissal thereof.

6) This Court, on perusal of the said Regulation of 1945, it is seen that that unlike the provisions of the Code of Civil Procedure, this Regulation of 1945 does not prescribe any form for filing an appeal under Regulation 46. Similarly, there is no form prescribed under the Regulation of 1945 for giving a notice of intimation to file an appeal.

7) In the present case in hand, a letter dated 23.2.16 is annexed to this revision petitioner which was written by the petitioner addressing to the Head Gam of village-Kon-Gida, wherein it is stated as follows:

*" ....I do not agree with the decision of Keba decision dated 19.02.2016 between Shri Horjum Lollen versus Duda Lollen because Keba members did not ask Shri Gedo Lollen to show the original boundary from whom I purchase the land and accordingly the keba demarcated the boundary of their own by upholding the ex-parte decision dated 18.11.2015.*

*Therefore, I am going to appeal before the DC, Aalo and you are requested not to submit the keba decision before the DC, Aalo."*

8) As quoted here-in-before, the petitioner herein had filed a complaint before the learned appellate authority wherein it was prayed that a direction be issued upon the village Authority of Kombo Tarsu to visit the disputed site and to demarcate the disputed land as per the decision dated 25.6.2016 of the village authority Keba and further, it was prayed to look into the matter by taking his complaint as an appeal under the Regulation of 1945 and the village authorities were requested to take up the matter for final disposal and to issue a direction to the village authority of the concerned village to re-demarcate the disputed boundary in presence and consultation with the actual land owner (seller).

9) Having considered the rival submissions and the materials available in the present revision petition, this Court is of the view that as per the provision of Regulation 46(2) of the Regulation of 1945, which provides that no pleader be allowed to appear before the court of Deputy Commissioner or Assistant Deputy Commissioner save and except with the permission of the Deputy Commissioner, therefore, the alleged defect in the form to file an appeal, if any, cannot be permitted to vitiate the appeal filed by the petitioner herein. From the complaint as well as the objection filed in the present case before the appellate authority, it is apparent that the same was filed by the petitioner himself without the assistance of any counsel. Therefore, this Court is inclined to interfere with the impugned Order bearing No.AR-9/TS "Kon-Gida" dated 16.8.2016 passed by the learned Deputy Commissioner, West Slang District, Aalo, by remanding the matter back to the said learned appellate authority by setting aside the Impugned order. It is ordered accordingly. Further, it is directed that the said learned appellate authority concerned would give notice of appearance upon the parties and to afford an opportunity of hearing to both the parties and pass a fresh decision thereof on merit in accordance with law.

10) Parties are at liberty to produce a certified copy of this order before the learned Deputy Commissioner, West Siang District, Aalo, who on receipt of the same shall restore the appeal filed by the petitioner to file and shall proceed to hear the parties by giving adequate opportunities to them and shall pass appropriate order(s) in accordance with law.

11) The revision petition stands allowed.

12) Parties are left to bear their own costs.

*Sdy. K. R. Swana*  
**JUDGE**

Mks/