

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)
ITANAGAR BENCH

WP (C) 643 (AP) 2017

1. Shri Tapa Nungnu,
S/o late Tagiam Nungnu, resident of Bokpin Colony,
Daporijo, P.O. & P.S: Daporijo, Upper Subansiri District.
Arunachal Pradesh.
2. Shri Tapor Mosu,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
3. Shri Tania Rai
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
4. Shri Tapiu Eru,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
5. Shri Tade Pakba
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
6. Shri Tapak Sikom,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
7. Shri Take Singkom,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
8. Shri Taru Laa,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District, Arunachal Pradesh.
9. Shri Tapiu Kampong,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo, Upper Subansiri District.
Arunachal Pradesh.
10. Shri Membe Rai,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
11. Shri Tayum Eru,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
12. Shri Tange Ekke,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
13. Shri Tere Riamuk,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
14. Shri Tagio Lungte,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo, Upper
Subansiri District. Arunachal Pradesh.

15. Shri Tade Natum,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
16. Shri Tarak Eru,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
17. Shri Tapa Dadi,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
18. Shri Giani Dasi,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
19. Shri Take Sarke,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
20. Shri Tapa Rikung,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
21. Shri Kesar Rai,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
22. Shri Tadam Ekke,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
23. Shri Malak Mosu,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
24. Shri T. Nacho,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
25. Shri Tarak Sindak,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
26. Shri Tari Kamdo,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
27. Shri Tala Giate,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
28. Shri Tare Kyamdo,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
29. Shri Takam Bayor,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
30. Shri Tapak Sikom,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
31. Shri Taga Rai,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
32. Shri Tama Rai,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
33. Shri Tara Rai,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
34. Shri Tai Kampong,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
35. Shri Talin Duchok,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
36. Shri Tapu Eru,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
37. Shri Taro Soram,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,

Upper Subansiri District. Arunachal Pradesh.

38. Shri Tade Leriak,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
39. Shri Tade Jepu,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
40. Shri Yajum Dignium,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
41. Shri Tade Dasi,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.
42. Shri Yake Ringling,
Bokpin Colony, Daporijo, P.O. & P.S- Daporijo,
Upper Subansiri District. Arunachal Pradesh.

.....**Petitioners**

-Versus-

1. The State of Arunachal Pradesh through the Chief Secretary,
Government of Arunachal Pradesh, Itanagar.
2. The Deputy Commissioner, Upper Subansiri District, Daporijo, A.P.
3. The Deputy Director, Department of Urban Development and
Housing, Division Daporijo, Upper Subansiri District, A.P.
4. The Land Revenue & Settlement Officer, Daporijo, Upper
Subansiri District, A.P.

.....**Respondents**

For the Petitioners : Mr. M. Kato, Adv.
For the State Respondents : Mr. S. Tapin, Sr. Govt. Adv.

Date of hearing : **14-09-2017**
Date of judgment (Oral) : 14-09-2017.

::BEFORE::

THE HON'BLE MR JUSTICE A. M. BUJOR BARUA

JUDGMENT AND ORDER (ORAL)

Heard Mr. M. Kato, learned counsel appearing for the petitioner and Mr. S. Tapin, learned Sr. Govt. Advocate appearing for the State respondents.

2]. The dispute in this writ petition is regarding shifting of the burial ground in Bokpin Colony, Daporijo. The residents of the locality, through the petitioner who is representing them as President of the concerned Committee have made a proposal before the respondent authorities that the location of the burial ground is causing some inconvenience to the people of the locality and therefore, they make a request

to shift the burial ground to some other place and the villagers have agreed to give some alternative land for the purpose by way of exchange. At that stage, to that effect, the petitioner had also submitted a representation dated 03.01.2013, where no effective consideration was given. The petitioner had preferred a writ petition before this Court being WP (C) 529 (AP) 2013. The said writ petition was disposed of by the Judgment and order dated 02.05.2017, wherein, the Deputy Commissioner, Upper Subansiri District, Daporijo was directed to consider and dispose of the representation dated 01.10.2012 and 03.01.2013 of the petitioners afresh, and in accordance with law, and by giving an opportunity of hearing to the present petitioner.

3]. Consequent upon such order of this Court, the respondent authorities had initiated the process of giving fresh consideration to the representation of the petitioner. Accordingly, the hearing was conducted on 15.06.2017 in the office of the Deputy Commissioner, Upper Subansiri District. As the hearing could not be concluded on the said date, a next date was fixed on 11.07.2017.

4]. But the petitioners had submitted an application before the Deputy Commissioner, Upper Subansiri District, Daporijo on 06.07.2017. In the said application itself, the Deputy Commissioner, Upper Subansiri District, Daporijo had made an endorsement requiring the EAC to put the application on file for hearing after 20.07.2017.

5]. Accordingly, it is to be understood that the hearing that was fixed on 11.07.2017 had been deferred to a date after 20.07.2017. But by the order dated 07.08.2017, the Deputy Commissioner, Upper Subansiri District, Daporijo concluded the proceeding initiated by the petitioner and had rejected their claim for shifting of the burial ground.

Perused the original record which contains the order dated 07.08.2017.

6]. The Deputy Commissioner in his order dated 07.08.2017 came to a conclusion that the hearing was held on 15.06.2017 and the petitioner along with his counsel were present. It was further concluded that after hearing on 15.07.2017 another date was fixed on 11.07.2017, but no one from the petitioner attended the hearing.

7]. The aforesaid conclusion of the Deputy Commissioner, Upper Subansiri District, Daporijo that the next date was fixed on 11.07.2017 and no one had attended on behalf of the petitioner appears to be factually incorrect. As noted above, the Deputy Commissioner himself have accepted the application of the petitioner for deferment and had fixed the further hearing after 20.07.2017 and as such, the conclusion that no one had attended on behalf of the petitioner on 11.07.2017 is incorrect and contradictory to the records.

8]. In such view of the matter, this Court is of the view that the hearing of the representation of the petitioner which was to have been further heard on a date after 20.07.2017 had not taken place and the Deputy Commissioner, Upper Subansiri District, Daporijo had incorrectly concluded that the petitioner was absent on 11.07.2017.

9]. In such view of the matter, it is directed that the Deputy Commissioner, Upper Subansiri District, Daporijo shall not construe the order dated 07.08.2017 to be the final order of rejection of the representation of the petitioner and on the other hand, provide them with an opportunity of further hearing as was fixed in the endorsement made in the application of the petitioner dated 06.07.2017. The Deputy Commissioner may notify the petitioner of the next date of hearing and the petitioner be allowed to participate in the hearing and may be allowed to produce any further material that they may desire to produce and thereafter, the Deputy Commissioner, Upper Subansiri District, Daporijo shall pass its final order.

10]. Accordingly, the consequential orders, dated 12.07.2017 and 19.07.2017 of the Deputy Commissioner, Upper Subansiri District, Daporijo shall be not given effect, till such final order be passed by the Deputy Commissioner and the said orders shall be subject what would be the final order to be passed by the Deputy Commissioner, Upper Subansiri District, Daporijo.

In terms of the above, writ petition stands disposed of.

JUDGE

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