

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

WP (C) 65 (AP) 2015

1. Shri Madak Sikom,
S/o Lt. Tama Sikom,
R/o Sippi Village, P.O/P.S.-Daporijo,
Upper Subansiri District, Arunachal Pradesh.

.....**Petitioner**

-Versus-

1. Smti. Mallu Pisa @ Malu Minia,
Sippi, R/o Sippi Village,
P.O./P.S. Daporijo,
Dist-Upper Subansiri,
Arunachal Pradesh.
2. The Ex-Officio Assistant Commissioner,
Daporijo, Dist-Upper Subansiri,
Arunachal Pradesh.

.....**Respondents**

For the Petitioner	: Mr. R. Saikia, Adv.
For the State Respondents	: Ms. N. Danggen, Adv., for respondent No. 1. Ms. A. Mize, learned Addl. Sr. Govt. Advocate for respondent No.2.

Date of hearing	: 15-09-2017
Date of judgment (Oral)	: 15-09-2017.

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

JUDGMENT AND ORDER (ORAL)

Heard Mr. R. Saikia, learned counsel for the petitioner. Also heard Ms. N. Danggen, learned counsel for respondent No. 1 and Ms. A. Mize, learned Addl. Sr. Govt. Advocate for Ex-Officio Assistant Commissioner/ respondent No.1.

2]. The petitioner claims to be in possession of a plot of private land at Sippi Village in Upper Subansiri District, Daporijo measuring about 16.190 Sq. Mtr. It is stated that the petitioner had inherited the said plot of land from his father and the description of the land is as follows:-

(I) North -BRTF Road.

(ii) South -Private Land of Shri Tama Hina.

(III)East -Steep Slope Area.

(IV)West -Private of Shri Daluk Dubi and Mapak Sippi.

3]. While the petitioner was in possession of the said land, the respondent No. 1 Smti. Malu Pisa @ Malu Minia of Sippi Village had made a claim over land. Accordingly, in order to resolve the dispute, a local Keba was held on 17.11.2013. The Keba had rendered its decision on 17.11.2013, wherein, it was held that the complaint of Smti. Malu Minia was found to be baseless and the land had been used by the family of the petitioner for many generations. The Keba decision also provided that Smti. Malu Minia was a helpless lady and therefore, in order to remove any negative feelings in her mind an amount of Rs.30,000/- be paid to her.

4]. But subsequently, the petitioner was served with a Parawana under the seal and signature of Ex-Officio Assistant Commissioner, Upper Subansir District, whereby, the petitioner was directed to appear before a Keba on 10.02.2015 on a complaint being lodged by Smti. Mallu Pisa, who happens to be the respondent No. 1. It is also stated that the village authorities who had conducted the earlier Keba had brought it to the notice of Ex-Officio Assistant Commissioner that a subsequent Keba cannot be held on the same subject matter and as such, it was requested that the Parawana dated 29.01.2015 be withdrawn. But be that as it may, the Ex-Officio Assistant Commissioner had issued a Re-Parawana dated 18.02.2015 to the present petitioner.

- 5].** Being aggrieved, the writ petition had been preferred.
- 6].** One of the contention of Mr. R. Saikia, learned counsel for the petitioner is that as no appeal had been preferred by the respondent No. 1 against the earlier Keba, the subsequent parawana are not maintainable under the law. Ms. Danggen, learned counsel for the respondent No. 1, on the other hand, contends that the respondent No. 1 did not have the knowledge of the earlier Keba decision and therefore, the earlier Keba decision is not binding. Ms. Danggen, learned counsel also states that being aggrieved, the respondent No. 1 had submitted a complaint before the Ex-Officio Assistant Commissioner and accordingly, the Parawana and the Re-Parawana was issued, which according to the learned counsel is justified under the circumstances.
- 7].** From the aforesaid facts and circumstances narrated by the learned counsel from which it is apparent that there was a earlier Keba decision of 17.11.2013 and the respondent No. 1 having not denied the same, the only stand of the respondent No. 1 is that they did not have the knowledge of the said decision. On the other hand, Mr. R. Saikia, learned counsel states that the respondent No. 1 was present in the Keba but she has refused to put her signature.
- 8].** Be that as it may, if the respondent No. 1 is aggrieved by a Keba decision for any reason, the appropriate remedy under the law would be to file an appeal under Section 46 of the Assam Frontier (Administration of Justice) Regulation, 1945. Upon the said appeal being filed, if the Deputy Commissioner being the appellate Court sees any ground to doubt that justice had not been meted in the decision and that there are some valid grounds for such conclusion, the Deputy Commissioner may either try the cases de novo himself or may refer the dispute to a panchayat by following the provisions of AFR, 1945.
- 9].** As noticed from the provisions of Section 46, the Ex-Officio Assistant Commissioner does not have any jurisdiction to issue any Parawana or Re-Parawana to the petitioner and to give a direction to appear before the Keba once again.

10]. In such view of the matter, the impugned Parawana dated 29.01.2015 and the Re-Parawana dated 18.02.2015 are found to be without any authority of law and jurisdiction thereof and accordingly, the same are set aside and quashed. But, however, as the respondent No. 1 had preferred a complaint which can also be construed to be an appeal against the decision of the Keba of 17.11.2013, the Deputy Commissioner being the appellate authority shall proceed with the same strictly in accordance with law and by following all the relevant procedure as prescribed under Section 46 of the AFR, 1945 and also any other law that would be applicable in the matter.

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

JUDGE

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