

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

ITANAGAR PERMANENT BENCH
(NAHARLAGUN)

WP(C)291(AP)2014

Smti. Tana Yallu

...Petitioner

-Versus-

The State of Arunachal Pradesh &4(four) Ors.

...Respondents

- B E F O R E -

HON'BLE MR. JUSTICE NANI TAGIA

For the Petitioners : Mr. P. Taffo
For respondent No.1 to 4 : Ms. R. Basar, Govt. Advocate.

Date of hearing : 18.11.2019.

Date of Judgment & Order : 18.11.2019.

JUDGMENT & ORDER(ORAL)

Heard Mr. P. Taffo, learned counsel for the petitioner. Also heard Ms. R. Basar, learned Jr. Govt. Advocate for the State respondents No. 1 to 4.

None appears for the respondent No. 5 on call.

2. By this writ petition, the petitioner has challenged the order dated 08.08.2014, issued by the Extra Assistant Commissioner, Itaganar, Capital Complex, Naharlagun, vide No. NGL/JUD/LOC-15/2013/206 in the matter of *Smti Techi Menia/complainant vs. Smti Tana Yalu/respondent*, by which order a

Bailable Warrant of Arrest was issued against the petitioner for failure to appear before the EAC, Naharlagun, in connection with monetary dispute between the respondent No. 5 and the petitioner to be settled by the village council. Also challenged in the present writ petition is the proceeding of Case No. NLG/JUD/LOC-15/2013.

3. According to the writ petitioner, the respondent No. 5 had earlier filed a Money Suit No. 10/12-(YPA) and Money Suit No. 11/12-(YPA) against the writ petitioner for recovery of some amount, which suit were withdrawn from the District Court at Yupia [M.S. No. 10/12-(YPA) & M.S. No. 11/12-(YPA)] on 30.08.2012 (annexed as Annexure '1' to the writ petition). After the Money Suit was withdrawn, the respondent No.5 approached the Deputy Commissioner by filing a complaint dated 18.10.2013, which was endorsed to the EAC, Naharlagun, by the Deputy Commissioner, Itanagar, for resolving the dispute between the respondent No.5 and the petitioner. Accordingly, the EAC, Itanagar, Capital Complex, Naharlagun issued the summon dated 25.11.2013, to the petitioner to appear before the EAC on 29.11.2013.

4. As the petitioner did not appear before the EAC, Itanagar Capital Complex, Naharlagun, the respondent No.5 filed an application before the EAC, Naharlagun on 01.05.2014, praying for issuance of Arrest Warrant against the petitioner. In pursuance, thereto, Warrant of Arrest was issued by the EAC, Naharlagun, against the petitioner and the Officer in-charge, P.S. Balijan, was directed to execute the warrant. Although, the warrant of arrest was issued on 23.05.2014, yet the same was not executed and Show Cause Notice dated 20.06.2014, was issued to the petitioner by the EAC, Naharlagun, asking the petitioner to show cause as to why the Warrant of Arrest should not be executed against her.

5. Whereupon, the petitioner filed a reply (annexed as Annexure '7') to the writ petition, stating *inter-alia* that the complaint filed by the respondent No.5 against the petitioner itself was not maintainable and therefore, no any question of executing of Warrant of Arrest, itself, arises.

6. After the petitioner had shown cause, the EAC, Naharlagun passed the impugned order dated 08.08.2014, by which order a Bailable Warrant of Arrest has been issued against the petitioner for securing her presence in connection with the monetary dispute between respondent No.5 and the petitioner, which has been registered as NLG/JUD/LOC-15/2013/206. It is also stated that the Bailable Warrant of Arrest, as issued by the impugned order dated 08.08.2014, was executed on 20.08.2014 (annexed as Annexure '8' to the writ petition).

7. Respondent Nos. 2, 3 & 4, have contested the case by filing the counter-affidavit, wherein it has been stated that on the complaint made by the respondent No.5 with regard to a monetary dispute between the respondent No. 5 and the petitioner, the matter was referred to the Village Council and despite, the dispute being referred to the Village Council, the petitioner remained absent on various dates fixed for appearance before the Village Council, therefore, the impugned order dated 08.08.2014, had to be issued by the EAC, Itangar, Capital Complex, to secure the presence of the petitioner.

8. The respondent No. 5, has also filed an affidavit, wherein it has been stated by the respondent No.5 that she owes a sum of more than Rupees One Crore to be paid to the money lender, on behalf of the petitioner and it is, for that purpose, the matter has to be settled between the petitioner and the respondent No.5.

9. I have heard Mr. P.Taffo, learned counsel for the petitioner and Ms. R. Basar, learned Junior Government Advocate for the respondent Nos. 1, 2, 3 & 4 and also perused the materials available on record.

10. From perusal of the impugned order dated 08.08.2014, issued by the EAC, Naharlagun, it is noticed that monetary dispute between the respondent No. 5 and the petitioner is pending resolution by the Village Council at EAC's Office, Naharlagun. If the dispute is with regard to money between the respondent No. 5 and the petitioner, the dispute, therefore, essentially is a civil dispute, to be resolved by the forum having competent jurisdiction to resolve the issue. The civil dispute in the State of Arunachal Pradesh is resolved under *The Assam*

Frontier(Administration of Justice) Regulation, 1945 (hereinafter, the 1945 Regulation). Under the 1945 Regulation, village authority is one of the forums for resolving the civil disputes.

11. In the Instant case as would be evident from the impugned order dated 08.08.2014 passed by the Extra-Assistant Commissioner, Naharlagun, there is no any indication of a village authority in *seisin* of the civil dispute between the respondent No. 5 and the petitioner. On the other hand, it is noticed in the impugned order 08.08.2014 that it is the Village Council which appears to be in *seisin* of the civil dispute between the respondent No. 5 and the petitioner at the EAC's Office, Naharlagun. The Village Council does not find any mention in the 1945 Regulation, as a forum for resolving civil disputes.

12. Be that as it may, if the dispute between the parties is of civil nature, in the view of this Court, no any Warrant of Arrest can be issued to secure the presence of the parties while the matter is being adjudicated by the Civil Court or forum having jurisdiction to settle the civil disputes. Such provision of issuing Warrant of Arrest to secure the presence of the parties in a civil dispute in the midst of adjudicatory process, is neither to be found in the 1945 Regulation nor in the Code of Civil Procedure, 1908.

13. In that view of the matter, the proceeding registered vide No. NGL/JUD/LOC-15/2013/206 in the matter of *Smti Techi Menia/complainant vs. Smti Tana Yalu/respondent No.5*, purportedly pending adjudication before the Village Council is found to be without jurisdiction and therefore, the proceeding registered as above, is hereby, set aside and quashed.

14. Needless to say, consequent, upon setting aside of the proceeding registered as above, Order dated 08.08.2014, passed by the Extra Assistant Commissioner, Itaganar, Capital Complex, Naharlagun, in the aforesaid proceeding also stands set aside and quashed.

15. The writ petition is allowed and **disposed of**.

JUDGE

Victoria