

**IN THE GAUHATI HIGH COURT**  
(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA,  
MANIPUR, TRIPURA, MIZORAM AND ARUNACHAL PRADESH)

**ITANAGAR PERMANENT BENCH**  
**NAHARLAGUN**

**WP(C)33(AP)2010**

*Smti. Oman Jempen*

D/o. Shri Tayor Jempen

R/o. Like Putu Colony, Aalo, P.S. & P.O. – Aalo,  
West Siang District, Arunachal Pradesh.

..... *Petitioner*

- *Versus* -

1. The Deputy Commissioner, Aalo, West Siang District, Arunachal Pradesh.
2. Shri Tumnya Karbak, S/o. Shri Tutum Karbak, P.O. & P.S.: Kamba, West Siang District, Aalo( A.P.).

..... *Respondents*

Advocates for the petitioner :- Mr. D. Boje  
Mr. T. Nima

Advocate for the respondents :- Mr. Anima Mize, Government Advocate  
Mr. M. Noshi  
Mr. M. Kato  
Mr. R. Karbi

**P R E S E N T**  
**THE HON'BLE MR. JUSTICE P. K. MUSAHARY**

Date of hearing :- **22.09.2010**

Date of Judgment & order :- **22.09.2010**

**JUDGMENT AND ORDER(ORAL)**

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Heard Mr. D. Boje, learned counsel for the petitioner. Also  
heard Ms. Anima Mize, learned Government Advocate for Official

respondent No. 1 and Mr. M. Kato, learned counsel for private respondent No. 2.

2. The facts leading to filing of this petition are that the petitioner got married to one Sri Nyamar Karbak, son of respondent No. 2, on 23.03.2006, as per the local tradition and prevailing customary practice of Galo Tribe of Arunachal Pradesh. During the marriage ceremony, the petitioner's father gave precious local ornaments/properties worth lakhs of rupees to the respondent No. 2, as recognition of his son, as son-in-law. But the son of respondent No. 2 developed extra-marital illicit relationship with one girl at Delhi. On 12.08.2007, the petitioner caught her husband red-handed at Delhi for which her relation with him became strained. The matrimonial relationship broke down and ultimately, divorce took-place in a local Keba. A complaint was made by the petitioner before the Deputy Commissioner, West Siang District, Aalo, for return of the precious ornaments/properties given by her at the time of solemnization of her marriage with Sri Nyamar Karbak as per the tradition and prevailing customary practice. The learned Deputy Commissioner endorsed the matter to Additional Deputy Commissioner, West Siang District, Aalo. The Board members of the Keba after thorough examination and scrutiny of the matter and having seen the video clippings, directed the respondent No. 2 to return the ornaments/properties on 04.03.2008 at 1000 hrs in the Conference Hall of the Deputy Commissioner, West Siang District, Aalo. In spite of such order, the respondent No. 2 did not comply with the order. The petitioner again approached the respondent Deputy Commissioner for taking necessary action upon which, he passed a speaking order dated 29.04.2009 in WS/JK/6/02-03(PT)/180, directing the respondent No. 2 to deposit the

said ornaments/properties failing which, action would be taken against him under the provision of Section 188 I.P.C.. The said order was also not complied with by the respondent No. 2 and therefore, the petitioner submitted a petition praying for execution of warrant of arrest as well as execution of his above order dated 29.07.2009 but till date, the same is kept pending unattended. In the aforesaid backdrop of the case, the petitioner has approached this court for issuing directions *“to expedite the trial of execution petition dated 29.07.2009(Annexure-C) and 04.01.2010(Annexure-D) filed by the petitioner for issuing of warrant against respondent No. 2”* and *“to direct to comply with the orders dated 14.02.2008 and 29.04.2009 passed by the Deputy Commissioner, West Siang District, Aalo, for returning back the valuable ornaments/properties to the petitioner”*.

3. Mr. Boje, learned counsel for the petitioner, persuaded hard to convince this court that when a marriage is dissolved or a divorce took place according to the prevailing custom and tradition, whatever ornaments/properties have been given by the father of the girl, are to be returned to the girl's family. Since the Keba as well as the Deputy Commissioner concerned have passed necessary orders to that effect, the respondent No. 2 is bound to comply with the same, however, since the respondent No. 2 has failed to comply with the above orders, the Deputy Commissioner is required to take necessary steps for execution of the order of the Keba.

4. As against this submission, Mr. Kato, learned counsel appearing for respondent No. 2, submits that there is no tradition and

customary practice prevailing amongst the Galo tribe of Arunachal Pradesh to return the ornaments/properties on dissolution of marriage or effecting divorce.

5. In the decision of the Keba(Annexure-1 to the affidavit-in-opposition filed by the respondent No. 2) as referred to by the learned counsel for the petitioner, the respondent No. 2 was directed to return the following ornaments/properties to the petitioner:

- “1. **Barku** - **3 Nos.**
2. **Bore**
3. **Jadu Malo** - **1 No.**
4. **Tadok Bikji** - **3 Nos.**
5. **Arom cash money/opo/Adin okke mene naru hissap Rs. 22,758/- should be taken into account amounting Rs. 22,758/-**
6. **Epak Paktom(fine for divorce) Rs. 10,000/-”**

6. As per the aforesaid direction, the respondent No. 2 paid the value of all the metal plates(*lamo adam*), in cash, at the rate of *Galo Bane Bogum-Boka Keba* in presence of 16 lamo members of marriage ceremony between Sri Nyamar Karbak and Smti. Oman Jempen, and the same was intimated to the Deputy Commissioner, West Siang District, Aalo, vide letter dated 24.07.2008. The respondent No. 2 having complied with the decision of the Keba, no further proceeding by way of execution of decree or warrant of arrest could be initiated against the respondent No. 2. Further, it has been submitted that there is no provision under the Assam Frontier(Administration of Justice) Regulation, 1945, for filing execution proceeding and warrant of arrest.

7. I have carefully considered the pleadings and submissions of the learned counsel appearing for the parties. The point that has stricken the mind of this court is that order dated 14.02.2008 (Annexure-A to the writ petition) was passed by the Additional Deputy Commissioner, West Siang District, Aalo, without issuing any notice and providing opportunity of hearing to the parties concerned. It is also found that the return of aforesaid ornaments/properties and payment of amount to the petitioner have not been denied and therefore, the grievance of the petitioner as regards non-compliance of the Keba decision by the respondent No. 2, is not correct and legally sustainable. So far as the tradition and customary practice of returning the ornaments/properties to the wife in the event of dissolution of marriage or divorce, it is a matter of controversy which cannot be decided without examining the prevailing customary practice. Such disputed claim cannot be examined and decided by this court in exercising powers under Article 226 of the Constitution of India.

8. In view of the above, I dispose of this writ petition with a direction to the respondent Deputy Commissioner, West Siang District, Aalo, to re-examine the matter in its entirety after providing due opportunity of hearing to the parties concerned and take a fresh decision accordingly.

9. The entire process of re-hearing and disposal of the matter shall be completed within a period of 2(two) months from the date of receipt of a certified copy of this order from either of the parties.

10. No costs.

**JUDGE**