

GAHC040004382021



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

Case No. : WP(C)/130/2021

Pakjen Puchung and 2 Ors
S/o Late Tinpu Puchung, village Hiri, PO/PS Mechuka, District Shi Yomi, AP 2:
Taku Puchung

Age:

Occupation :

S/o Late Tajab Puchung

village Hiri

PO/PS Shi Yomi

District Shi Yomi

AP

3: Bojum Puchung

Age:

Occupation :

S/o Late Tatik Puchung

village Hiri

PO/PS Shi Yomi

District Shi Yomi

A

VERSUS

THE STATE OF AP and 2 Ors
represented by the Secretary, General Administration, Govt. of AP, Itanagar
2:The Additional Deputy Commissioner

Age: 0

Occupation :

Mechuka

Shi Yomi District

AP

3:Tame Pupor

Age: 0

Occupation :

S/o Late Cadik Pupor

village Rapun

PO/PS Mechuka

District Shi Yomi

A

Advocate for the Petitioner : T T Tara, D Loyi, Jumgam Jini, Adam Tatak, Gamken Bam

Advocate for the Respondent : GA (AP),

**BEFORE
HONOURABLE MR. JUSTICE KARDAK ETE**

ORDER

Date : 16.02.2026

Heard Mr. J. Jini, learned counsel for the petitioners. Also heard Ms. G. Ete, learned Additional Senior Government Advocate for the State respondents No.1 and 2 as well as Mr. T. Son, learned counsel for the respondent No.3.

2. By this application, the petitioners have put to challenge the Kebang decision/judgment and order dated 22.09.2020, passed by the Board of Arbitrators, whereby the land dispute between the Pupor Clan and the Puchung Clan was declined to be interfered with in view of the Kebang decision dated 26.11.2017 and the decision dated 13.12.2017 by the Additional Deputy Commissioner, Mechukha, as the dispute had already been decided, thereby the land stretch from *Yorny boundary to Sinkom Singme* has been declared to be the land of the Pupor Clan, represented by respondent No. 3.

3. Briefly put, the case of the petitioners is that the petitioners' clan has been in possession of the land called "Tali Arik" since time immemorial without any disturbance from any corner. In the year 2017, a dispute has arisen between the

petitioners' clan and the respondent No. 3's clan over the said land. Accordingly, several Kebangs were conducted; however, no conclusive decision was arrived at. The matter was referred to the Arbitration Board for amicable settlement of the case. In the arbitration, the parties agreed to undergo a Chicken Liver Test on the basis of an undertaking, but it is claimed that the said Chicken Liver Test was not conducted properly and that the same was not in accordance with the prevalent custom. The Kebang decision dated 26.11.2017 has decided against the petitioners and the same was upheld by the Additional Deputy Commissioner vide order dated 13.12.2017 was passed against the petitioners. Again the matter was referred to arbitration. Accordingly, a civil revision petition, being CRP. No. 12/2018, was filed before this Court challenging the said decision to refer the matter again even after it was upheld on appeal. During the pendency of the civil revision petition, the impugned Kebang decision dated 22.09.2020 was passed; hence, the instant writ petition.

4. Mr. Jini, learned counsel for the petitioners, submits that the order dated 22.09.2020, whereby purportedly a Board of Arbitrators was constituted in respect of the land dispute of Tali Arik, was not in accordance with the provisions of the *Assam Frontier (Administration of Justice) Regulation, 1945*, as the Deputy Commissioner/ADC had not referred the matter to the Arbitrators in terms of Section 38 of the said Regulation of 1945. The Board of Arbitrators was constituted by the Chairman of Arbitration without any jurisdiction, as it is only the Deputy Commissioner/ADC who is mandated under the law to constitute a Board and refer the matter for arbitration. Mr. Jini, learned counsel, submits that the impugned Kebang decision/judgment and order dated 22.09.2020 has been passed *ex-parte*, that too when the matter was in seisin of the Hon'ble High Court in CRP No. 12/2018. He therefore submits that the impugned Kebang

decision/judgment and order by the Board of Arbitrators dated 22.09.2020 may be set aside and quashed.

5. Ms. G. Ete, learned Additional Senior Government Advocate, while referring to the affidavit-in-opposition filed on behalf of respondent No. 2, submits that in view of the complaints and counter-complaints from various quarters during the survey carried out by the Land Management Department for construction of the road from Tato to Mechukha, the ADC had constituted a Board of Arbitrators comprising Shri Singlong Koje, Ex-ASM; Shri Tanil Komi, Ex-ASM; and Shri Rapden Koje as members, including the concerned HGB/GBs of the respective villages as members. Pursuant thereto, the Kebang decision dated 22.02.2020 was passed by the Board of Arbitrators, whereby it was found that the disputed land in question had already been settled by the decision of the ADC, Mechukha, vide order dated 13.12.2017, and accordingly it was held that a portion of the land stretch from *Yorneyi boundary to Sinkom Singme* had been decided in favour of the Pupor Clan, as decided earlier. Therefore, there is no illegality in deciding the matter, that too when the matter had already been settled by the earlier Kebang decision.

6. Mr. Son, learned counsel for respondent No. 3, submits that the dispute in respect of the land had already been settled by the decision dated 13.12.2017, and the Board of Arbitrators, after consideration of the evidence and records, decided that there was no reason to interfere with the decision already passed by the ADC. Accordingly, the land stretch from *Yorneyi boundary to Sinkom Singme* has been declared in favour of the Pupor Clan represented by respondent No. 3. He submits that the land claimed by the petitioners and respondent No. 3 are two different and distinct lands, as the impugned order does not disclose the land dispute to be Tali Arik; rather, it is shown to be a land

stretch from *Yorny boundary to Sinkom Singme*.

7. Rejoining the submissions, Mr. Jini, learned counsel for the petitioners, submits that there is no dispute as regards the land known as Tali Arik, the stretch of land mentioned in the impugned Kebang decision/judgment and order dated 22.09.2020 is merely described as a stretch of land without mentioning the exact name of the land in dispute.

8. I have considered the submissions of the learned counsel for the parties and have perused the material available on record.

9. The disputed land in respect of Tali Arik appears to have been decided by the Kebang on 26.11.2017, against which an appeal was preferred, and the same was upheld by the ADC, Mechukha, vide order dated 13.12.2017. Thereafter, another appeal was filed before the Deputy Commissioner, Aalo, and the Deputy Commissioner, Aalo, by order dated 31.01.2018, again remanded the matter back to the ADC, Mechukha. The said order was put to challenge, and another order constituting the Board of Arbitrators was also challenged in CRP No. 12/2018. During the pendency of CRP No. 12/2018, the impugned order was passed whereby the Kebang decision dated 26.11.2017, as upheld by the ADC vide order dated 13.12.2017, was declined to be interfered with, and accordingly, a portion of the land stretch from *Yorny boundary to Sinkom Singme* was decided in favour of the Pupor Clan represented by respondent No. 3.

10. Upon consideration of the provision of law with regard to the constitution and reference of a Board of Arbitrators as provided under Section 38 of the *Assam Frontier (Administration of Justice) Regulation, 1945*, it appears that such constitution was not done in accordance with the mandate of the law. However,

by lapse of time, and upon repeal of the arbitration provisions as prescribed earlier under the *Assam Frontier (Administration of Justice) Regulation, 1945*, the dispute is now to be resolved either by way of an appeal or by a fresh suit.

11. The record reveals that the Chairman was appointed by the ADC; however, the other members of the Board of Arbitrators were appointed by the Chairman of the Ramo Area land dispute case, which is not in accordance with the mandate of law. The initial Kebang decision dated 26.11.2017 having been put to challenge by way of an appeal before the ADC, and the ADC having decided the same issue by an order dated 13.12.2017, there could not have been any further appeal by the parties before the Deputy Commissioner. Since no further appeal could have been maintained before the Deputy Commissioner, the consequential order referring the matter back to the ADC, who had already decided the appeal against the Kebang decision dated 26.11.2017, is also not in accordance with the provisions mandated under the law. The present impugned order appears to have been passed consequent to a further appeal after the decision of the ADC dated 13.12.2017. Thus, the Board of Arbitrators could not have passed the Kebang decision/judgment and order dated 22.09.2020, upholding Kebang decision dated 26.11.2017, and the order dated 13.12.2017 passed by the ADC, Mechukha, in a purported further appeal which is not permissible under the law.

12. In view of above, the Kebang decision/judgment and order dated 22.09.2020 is *non-est*, as the same has not been passed following due process of law, particularly Section 38 of the *Assam Frontier (Administration of Justice) Regulation, 1945*, in constituting the Board of Arbitrators and reference for Arbitration. The Kebang decision dated 26.11.2017 and the order of Additional Deputy Commissioner dated 13.12.2017 shall remain. However, it is provided

that any party aggrieved, may approach the appropriate forum, as may be permissible under the law.

13. The writ petition stands disposed of.

JUDGE

Comparing Assistant