

GAHC040006662020



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

Case No. : WP(C) 261/2020

1:RIGAM KINO
S/O LT. TADE KINO, VILLAGE- NEW DISSIONG, PO/PS SEIJOSA, DISTRICT-
PAKKE KESSANG, AP

2: TOKLO KINO
S/O LT. TADE KINO
VILLAGE NEW-DISSIONG
PO/PS SEIJOSA
DISTRICT-PAKKE KESSANG
AP.

3: NERA KINO
S/O LT. TAI KINO
VILLAGE NEW-DISSIONG
PO/PS SEIJOSA
DISTRICT-PAKKE KESSANG
AP.

4: YANIANG GOMKU
W/O LT. TANYA GOMKU
VILLAGE NEW-DISSIONG
PO/PS SEIJOSA
DISTRICT-PAKKE KESSANG
AP.

5: POKO KINO
S/OLT. KAMA KINO
VILLAGE NEW-DISSIONG
PO/PS SEIJOSA
DISTRICT-PAKKE KESSANG
AP.

6: TATANG LABUNG
S/O LT. BELE LABUNG
VILLAGE NEW-DISSIONG
PO/PS SEIJOSA
DISTRICT-PAKKE KESSANG
AP.

7: TAYUNG KINO
S/O LT. TAKAM KINO
VILLAGE NEW-DISSIONG
PO/PS SEIJOSA
DISTRICT-PAKKE KESSANG
AP.

8: PANGTUNG PINCHE
S/O LT. NIKAM PINCHE
VILLAGE LASSUPATTE
PO/PS SEIJOSA
DISTRICT-PAKKE KESSANG
AP.

9: TARAM LABUNG
S/O SHRI RANGHA LABUNG
VILLAGE
LASSUMPATTE
PO/PS SEIJOSA
DISTRICT PAKKE KESSANG
AP.

10: TAKYA LABUNG
S/O SHRI CHINTUNG LABUNG VILLAGE
LASSUMPATTE
PO/PS SEIJOSA
DISTRICT PAKKE KESSANG
AP.

11: LOYANG SOJA
S/O LT. LALE SOJA
VILLAGE
LASSUMPATTE
PO/PS SEIJOSA
DISTRICT PAKKE KESSANG
AP.

12: ASHOK TAMO
S/O LT. LOGO TAMO
VILLAGE
LASSUMPATTE
PO/PS SEIJOSA
DISTRICT PAKKE KESSANG
AP.

13: ATUNG TAMO
S/O LT. ARYUNG TAMO
VILLAGE
LASSUMPATTE
PO/PS SEIJOSA
DISTRICT PAKKE KESSANG
AP.

14: TUYA LABUNG
S/O SHRI CHINTUNG LABUNG
VILLAGE
LASSUMPATTE
PO/PS SEIJOSA
DISTRICT PAKKE KESSANG
AP.

15: CHAKANG PINCHE
S/O SHRI KADANG PINCHE
VILLAGE
LASSUMPATTE
PO/PS SEIJOSA
DISTRICT PAKKE KESSANG
AP.

16: SIJI SIJI
S/O LT. BANGNI SIJI
VILLAGE
LASSUMPATTE
PO/PS SEIJOSA
DISTRICT PAKKE KESSANG
AP.

17: KARSI PINCHE
S/O LT. NIKAM PINCHE
VILLAGE
LASSUMPATTE
PO/PS SEIJOSA
DISTRICT PAKKE KESSANG
AP.

18: PITU PINCHE
S/O SHRI LATE PINCHE
VILLAGE
LASSUMPATTE
PO/PS SEIJOSA
DISTRICT PAKKE KESSANG
AP.

19: TAKIA LABUNG
S/O LT. TARA LABUNG
VILLAGE
LASSUMPATTE
PO/PS SEIJOSA
DISTRICT PAKKE KESSANG
AP.

20: RAJU SOJA
S/O SHRI CHETRO SOJA
VILLAGE
LASSUMPATTE
PO/PS SEIJOSA
DISTRICT PAKKE KESSANG
AP.

21: AGA SIJI
S/O SHRI KACHI SIJI
VILLAGE
LASSUMPATTE
PO/PS SEIJOSA
DISTRICT PAKKE KESSANG
AP.

22: MELONG BIRAP
W/O LT. KELONG BIRAP
VILLAGE
LASSUMPATTE
PO/PS SEIJOSA
DISTRICT PAKKE KESSANG
AP.

23: BIKASH PINCHE
W/O SHRI KINGKU PINCHE
VILLAGE
LASSUMPATTE
PO/PS SEIJOSA
DISTRICT PAKKE KESSANG
AP

VERSUS

1:THE STATE OF AP
REPRESENTED BY THE CHIEF SECRETARY, GOVT. OF AP, ITANAGAR.

2:THE DEPUTY COMMISSIONER
PAKKE KESSANG DISTRICT
PAKKE KESSANG PO PAKKE KESANG AP.

3:THE ADDITIONAL DEPUTY COMMISSIONER
PAKKE KESSANG DISTRICT SEIJOSA PO /PS SEIJOSA AP.

4:THE CIRCLE OFFICER
DISSING PASSO CIRCLE
SEIJOSA PO SEIJOSA
DISTRICT PAKKE KESSANG AP

5:TAKING TAGIO POLITICAL INTERPRETER (P.I)
O/O ADDL. DEPUTY COMMISSIONER
PAKKE KESSANG DISTRICT SEIJOSA
PO/PS SEIJOSA
DISTRICT PAKKE KESSANG AP

6:TAJO KINO
S/O SHRI GACHAK KINO
VILLAGE TAPASSO
PO/PS SEIJOSA
DISTRICT PAKKE KESSANG
AP.PRESENTLY AT NBCC HEAD OFFICE
KONKAR NALLAH
NAHARLAGUN.

7:HETER KINO
S/O SHRI GACHAK KINO
VILLAGE TAPASSO PO/PS SEIJOSA
DISTRICT PAKKE KESSANG
AP

Advocate for the Petitioner : Nending Kago
R Nabam
A Linggi
Y Payum
T R Tare

Advocate for the Respondent : GA (AP)

**BEFORE
HONBLE MR. JUSTICE NANI TAGIA**

ORDER

Date : 30-09-2020

Heard Mr. N. Kago, learned counsel, appearing on behalf of the petitioners.

Also heard Mr. I. Riram, learned Addl. Senior Government Advocate, appearing on behalf of Respondents No. 1, 2, 3 & 4.

This writ petition under Article 226 of the Constitution of India, is directed against the following orders:

- (i) Order, dated 18.08.2020, issued by the Additional Deputy Commissioner, Pakke Kessang District, Seijosa, vide Memo. No. SJA/JUD-12/20, whereby a "local Yallung case" has been fixed at General Ground, Upper Seijosa, on 21.08.2020, at 10AM, for amicable settlement of the case in connection with land dispute at Maibung area, Dissing Passo Circle. By the said order, one Shri Taking Tagio, P.I. has been entrusted to oversee the conduct of the "Yallung case".(Annexure-E1 to this petition);
- (ii) Order, dated 18.08.2020, issued by the Additional Deputy Commissioner, Pakke Kessang District, Seijosa, vide Memo. No. SJA/JUD-12/20, whereby a "local Yallung case" has been fixed at General Ground, Upper Seijosa, on 21.08.2020, at 10AM, for amicable settlement of the case in connection with land dispute at Maibung area, Dissing Passo Circle. By the said order, one Shri Taking Tagio, P.I. has been entrusted to oversee the conduct of the "Yallung case".(Annexure-E2 to this petition);
- (iii) Order, dated 21.08.2020, issued by the Additional Deputy Commissioner, Pakke Kessang District, Seijosa, vide Memo. No. SJA/JUD-12/20, whereby Shri Takam Nabam, HGB, Mobuso-I; Shri Tajik Wage, HGB-Jolly; and Shri Budhiram Tai, HGB, Darlong; have been appointed to oversee and supervise the "local Yallung case" which has been fixed at General Ground, Upper Seijosa, on 21.08.2020 and 22.08.2020, at 10AM, for amicable settlement of the case in connection with land dispute at Maibung area Dissing Passo Circle.(Annexure-F to this petition);

- (iv) Letter, dated 03.09.2020, written by the Circle Officer, Dissing Passo, vide Memo. No. DP/JUD-12/20, to Shri Rigom Kino and Shri Taram Labung (Petitioners No. 1 & 9 respectively), whereby the minutes of the meeting and decision taken during the "Yallung case" on 21.08.2020 and 22.08.2020, regarding amicable settlement of the land dispute at Maibung area, have been communicated to them.(Annexure-I to this petition); and
- (v) Minutes of the meeting, dated 22.08.2020, communicated by Shri Takhing Tagio, P.I., Dissing Passo, Seijosa; whereby the private Respondents No. 6 & 7 have been held to have the right to claim over the disputed land.

According to the petitioners, the land, in question, at Maibung area, is a community land of the villagers of New Dissing and Lassum Patte villages of Dissing Passo Circle, Seijosa, of which the petitioners are the members.

On a dispute being raised by the private Respondents No. 6 & 7 in respect of the land, in question, though the Additional Deputy Commissioner, Pakke Kessang District, Seijosa, vide the impugned orders, dated 18.08.2020 and 21.08.2020, had constituted a "local Yallung" for amicable settlement of the case relating to the disputed land which, in other words, is an accepted and practiced mode of settlement of disputes by the people of that area, in the form of an arbitration proceeding. Yet, whenever a case is settled through the mode of arbitration or local Yallung, the contesting parties are required to nominate equal numbers of arbitrators for both sides which have not been done in the instant local Yallung/arbitration proceeding. Such mode of settlement of a case by the arbitrators has also been statutorily recognized under Section 38 of the Assam Frontier (Administration of Justice) Regulation, 1945, which Section categorically prescribes for nomination of equal numbers of arbitrators for both sides by the contesting parties, should the dispute be resolved by means of an arbitration.

The petitioners, therefore, contends that since there was no equal numbers of nomination of arbitrators by both sides in the minutes of the meeting held on 22.08.2020 in pursuance of the impugned orders, dated 18.08.2020 and 21.08.2020, issued by the Additional Deputy Commissioner, Pakke Kessang District, Seijosa; the decision rendered by the P.I., Pakke Kessang District, Seijosa, vide impugned minutes of the meeting, dated 22.08.2020, in connection with the "Yallung case" regarding the land, in question, cannot be sustained.

Having considered the nature of contentions raised, let notice of motion be issued calling upon the respondents to show cause as to why a Rule should not be issued as prayed for; and/or why such further or other order(s) should not be passed as to this Court may deem fit and proper.

The notice is made returnable in 6 weeks.

As Mr. Riram, learned Addl. Senior Government Advocate, has accepted notices on behalf of Respondents No. 1, 2, 3, & 4; no formal notice is required to be sent to the said respondents. However, he shall be provided with the requisite extra copies of the writ petition during the course of the day.

In addition to the steps to be taken by the petitioners on private Respondents No. 5, 6 & 7, by registered A/D post as well as by usual process within 3 days from today; the learned counsel for the petitioners is also permitted to take *dasti* service on Respondents No. 6 & 7 which shall be routed through the Registry of this Court and an affidavit to that effect, be filed, thereafter.

Taking into account the contentions raised by the petitioners that the local Yallung/arbitration proceeding was not conducted by the arbitration Board comprising of equal numbers of nominated arbitrators from both sides, as also prescribed by Section 38 of the Assam Frontier(Administration of Justice) Regulation, 1945, requiring the contesting parties to nominate equal numbers of arbitrators by both sides, should the contesting parties decide to resolve the dispute through the arbitrators; in the interest of justice, the impugned minutes of the meeting, dated 22.08.2020, as conveyed through the letter, dated 03.09.2020, written by the Circle Officer, Pakke Kessang District, Dissing Passo, vide Memo. No. DP/JUD-12/20, to the Petitioners No. 1 & 9, respectively, shall remain stayed until further orders.

List it after 6 weeks.

JUDGE

Comparing Assistant