

GAHC040011592024

2026:GAU-AP:46



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

**Case No. : CRP/34/2024**

Yomto Jini  
Son of Late Rayom Jini, resident of Paktu, PO and PS Aalo, West Siang District,  
Arunachal Pradesh.

VERSUS

Smti Dongam Jini  
Wife of Late Rayom Jini, resident of Old Market, Aalo, PO and PS Aalo, West Siang  
District, Arunachal Pradesh.

**Advocate for the Petitioner** : Duge Soki, Topi Jini

**Advocate for the Respondent** : Marto Kato, Nyali Sora, Mepe Ete

**BEFORE**  
**HONOURABLE MRS. JUSTICE YARENJUNGLA LONGKUMER**

**ORDER**

**20/01/2026**

The present petition has been filed under Article 227 of the Constitution of India praying for setting aside the impugned order dated 05.08.2024 passed by the Additional Deputy Commissioner, West Siang District, Aalo, Arunachal Pradesh in Execution case No. 06/2023.

**2.** Heard learned counsel Mr. D. Soki for the petitioner and learned counsel Mr. M. Ete for the respondent.

**3.** The case of the petitioner is that there was a Keba between the petitioner and the respondent on 16.07.2023 to settle the dispute regarding a commercial building at Aalo. The Keba decision on 16.07.2023 settled the dispute by making a partition of the building between the petitioner and the respondent. Thereafter, the respondent filed a Letter of Administration case before the District Judge Aalo. In the meantime, since, the respondent was not allowing the petitioner to collect the rent from his portion of building, the petitioner again lodged a complaint before the Keba and accordingly a parwana was issued for holding a Keba. In this connection the respondent filed an application before the District Judge, Aalo praying for stay of the parwana and procured an ex-parte order staying the conduct of the Keba.

**4.** At this juncture, the petitioner preferred Civil Revision Petition No. 61/2023 before this Court. After hearing the parties, this Court disposed of the CRP No. 61/2023 by setting aside the ex-parte order passed by the District Judge, Aalo, vide order Dated 29.04.2024.

**5.** This Court, by order dated 29.04.2024, also held that the Keba decision dated 16.07.2023 had attained finality and therefore, cannot be re-opened and that the Keba order dated 16.07.2023 is required to be carried out in full spirit.

**6.** It is also the case of the petitioner that during the pendency of the CRP No. 61/2023 before this Court an order dated 31.01.2024 had been passed by the Assistant Commissioner, Aalo for compliance of the Keba order dated 16.07.2023

in an execution petition filed by the petitioner.

**7.** After the disposal of the Civil Revision Petition No. 61/2023, a subsequent Keba was held on 29.06.2024 wherein the earlier decision of the Keba dated 16.07.2023 was reiterated.

**8.** The petitioner further submits that the respondent also preferred a Civil Revision Petition before this Court numbered as CRP No. 21/2024 challenging the Keba decision dated 16.07.2023 and the execution order dated 31.01.2024 with an interim prayer for staying both the orders. However, this Court declined to grant any interim relief in CRP No. 21/2024. After the interim prayer for stay was declined by this Court, the respondent approached the Additional Deputy Commissioner, Aalo for recall of the execution order dated 31.01.2024. Thereafter the Additional Deputy Commissioner, Aalo recalled the execution order dated 31.01.2024 by the impugned order dated 05.08.2024.

**9.** Being aggrieved by the order dated 05.08.2024, passed by the Additional Deputy Commissioner, Aalo the petitioner has approached this Court primarily on the ground that the Keba decision of 16.07.2023 has attained finality and there is no appeal against the order of the Keba dated 16.07.2023. The learned counsel for the petitioner further submits that the respondents have also been preferred any appeal against the order dated 29.04.2024 passed in CRP No. 61/2023 by which a Coordinate Bench of this Court had held that the Keba decision on 16.07.2023 has attained finality, cannot be re-opened and is required to be carried out in full spirit. And hence the executing court could not have recalled the execution order dated 31.01.2024.

**10.** It is further submitted that the Civil Revision Petition filed by the respondent against the Keba decision dated 16.07.2023 and the execution order dated 31.01.2024 has already been withdrawn by the respondent on 17.09.2024. Further the Letter of Administration Case No. 06/2023 which was pending before the District Judge, Aalo has also been dismissed on 07.08.2024 basing on the order passed by this Court in CRP No. 61/2023.

**11.** It is further submitted by the learned counsel for the petitioner that the respondent did not approach the Additional Deputy Commissioner, Aalo with clean hands, as the full facts of the case were not disclosed.

**12.** The learned counsel for the petitioner, Mr. D. Soki has also submitted that the Additional Deputy Commissioner, Aalo has dealt with the matter in a very mechanical manner and has treated the recall petition like a review petition and has recalled the order dated 31.01.2024 on the premise that the case is subjudice before other courts and forums, whereas the actual fact was that this Court in CRP No. 61/2023 had already held that the Keba decision on 16.07.2023 had attained finality and there was no interim order in favor of the respondent before any court of forum.

**13.** Another contention of the petitioner is that the Additional Deputy Commissioner being the executing court had no power to review its own order, it is submitted that in the absence of any statutory provisions the executing court could not have reviewed or recalled its own order as the power to review is not an inherent power. The power must be conferred by law and in the absence of any provision in the relevant act/ rules, review of an earlier order is impermissible as review is a creation of statute. In support of this contention

the learned counsel for the petitioner has relied on the case of ***KALABHARATI ADVERTISING Versus HEMANT VIMALNATH NARICHANIA AND OTHERS*** reported in ***(2010) 9 SCC 437***.

**14.** In view of the submission made herein above, the learned counsel for the petitioner prays that the impugned order dated 05.08.2024 passed by the Additional Deputy Commissioner, Aalo is Execution Case No. 06/2023 may be quashed and set aside.

**15.** The learned counsel for the respondent, Mr. M. Ete at the outset submits that the observations of this Court in order dated 29.04.2024 passed in CRP No. 61/2023 is not a ratio decidendi but merely an obiter dicta. Learned counsel submits that this Court had only made an observation that the Keba decision 16.07.2023 had not been assailed by the respondent and that it has attained finality, however, this cannot be a binding decision. Another contention of the learned counsel for the respondent is that the second Keba decision dated 29.06.2024 has superseded the first Keba decision on 16.07.2023 and therefore, all the proceedings which are filed after the first Keba is now infructuous and the present petition which has been filed subsequent to the second Keba is also not maintainable.

**16.** Learned counsel for the respondent submits that the first Keba dated 16.07.2023 was actually a family meeting and not a proper Keba decision as it was held in the house of the respondent and not at the proper venue where the Keba is to be held, the members present in the keba were also all family members and therefore the decision dated 16.07.2023 cannot be held to be a Keba decision.

**17.** Another contention of the learned counsel for the respondent is that she had filed a petition for recall of the execution order dated 31.01.2024 and not for a review and that the execution order could have been recalled by the executing court under the inherent power conferred by Section 151 of the Civil Procedure Court. Therefore, the Additional Deputy Commissioner, Aalo was within his powers to recall the executing order dated 31.01.2024.

In view of the submission made, the learned counsel submits that the petitioner has not been able to make out a case for the interference of this Court in the present petition.

**18.** This Court has given due consideration to the submission of the learned counsel for the parties and has perused the records available before the court.

**19.** It is an admitted fact that no appeal has been preferred against the order dated 29.04.2024 passed in CRP No. 61/2023. In CRP No. 61/2023, this Court had considered the matter in its entirety and had dealt with the legality of the first Keba which was held on 16.07.2023 between the petitioner and the respondent exhaustively. This Court after hearing the parties came to a finding that the Keba decision dated 16.07.2023 has not been appealed against during the stipulated period and has therefore attained finality and cannot be reopened. This Court also held that the dispute between the respondent and the petitioner had been settled by the Keba proceedings dated 16.07.2023 and the same is required to be carried out in full spirit. Such a finding cannot be held to be an obiter dicta.

**20.** The recall petition filed by the respondent before the Additional Deputy

Commissioner, Aalo was preferred after the disposal of CRP No. 61/2023. However, in the impugned order dated 05.08.2024 it is seen that no reference at all has been made to the decision of this Court passed in CRP No. 61/2023. The learned executing court has failed to consider that there were no interim orders in favor of the respondent before any court or forum. It is also seen that the executing court had taken up the matter of recall as a review application and the same is barred by law as the executing court has no inherent power to review its own order unless the same is necessitated by exceptional situations. The recall application of the respondent is disguised as a review application. The Execution Court lacks power to recall its own order except when it is a case of nullity, fraud or want of jurisdiction.

**21.** Be that as it may the executing order dated 31.01.2024 does not reflect any coercive action against the respondent. The executing court had merely directed the respondent to comply with the Keba decision of 16.07.2023. During the course of hearing it has been submitted by the learned counsel for the parties that the petitioners as well as the respondent are realising the rent from the building concerned as directed by the Keba decision of 16.07.2023 as on date. It is also an admitted fact that the respondent herein has subsequently filed a Civil Appeal No. 23/2024 in the court of the Civil Judge, Senior Division West Siang District, Aalo challenging the Keba decision of 29.06.2024 whether the petitioner herein has also been impleaded as respondent and the matter is pending adjudication.

**22.** This Court is therefore of the view that the executing court/ Additional Deputy Commissioner, Aalo could not have recalled/reviewed its own order, primarily due to the fact that the executing court does not possess inherent

powers under the CPC except in exceptional circumstances as mentioned above and moreover, due to the fact that a coordinate bench of this Court in CRP No. 61/2023 had already held that the Keba decision on 16.07.2023 had obtained finality and cannot be re-opened and required to be carried out in full spirit. In the opinion of this Court, the respondent was not able to make out any exceptional circumstance for recall/ review of the execution order dated 31.01.2024.

**23.** Consequently, it is the view of this Court that a case has been make out by the petitioner warranting the interference of this Court and therefore, the impugned order dated 05.08.2024 passed by the Additional Deputy Commissioner, Aalo in Execution Case No. 06/2023 is quashed and set aside.

Petition is allowed.

**JUDGE**

**Comparing Assistant**