

GAHC040012822025



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

Case No. : CRP/84/2025

Obang Mengu
Son of Late Ngupak Mengu, a permanent resident of Village Napit, PO and PS
Pasighat, East Siang District, Arunachal Pradesh.

VERSUS

Obit Dai
Son of Late Lome Dai, a permanent resident of Village Diking, PO and PS Pasighat,
East Siang District, Arunachal Pradesh.

Advocate for the Petitioner : Kemo Lollen, Arun Yun, Maryum Sora, Geli Taye, D Ado

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG

ORDER

Date : 04.08.2025

Heard Mr. Kemo Lollen, learned counsel for the petitioner.

2. The present petition has been filed by the petitioner under Article 227 of the Constitution of India, challenging the 3rd summons dated 18.06.2025, issued by the Gaon Burah, Court of Traditional Village Council, Diking Village, East Siang District, Pasighat, in purported exercise of jurisdiction under Section

41 of the Assam Frontier (Administration of Justice) Regulation Act, 1945, whereby the petitioner has been directed to appear before the Kebang in connection with a complaint made by the respondent.

3. The background fact of the case reveals that the mother of the respondent and his elder brother executed a Last Will and Testament on 31.10.2006, wherein, the property was allegedly divided between the both sons. In the said Will, the petitioner was shown as one of the witnesses. The respondent relying upon the Will, filed a probate application under Section 276 of Indian Succession At, 1925, before the Additional District & Sessions Judge, Pasighat. During the probate proceeding the petitioner appeared and, while being examined on oath, he stated that he does not remember how his name appeared as a witness in the Will and he does not remember when he had appended his signature in it.

4. Being aggrieved by such statement, the respondent filed a complaint before the Kebang on 05.05.2025 alleging that the petitioner made a false statement and had disowned his own signature. It is further alleged that when approached by the respondent for clarification, the petitioner informed that the statement made before the civil court was on the advice of his advocate, and that he was willing to clarify the same.

5. The Kebang of Diking Village thereupon issued a summons to the petitioner. It is against this summons that the present petition has been filed. The petitioner contended that the statement made before the probate court was in judicial proceedings, protected by absolute privilege, and cannot form the basis of any civil or criminal liability before any customary authority. It is further submitted that no offence -civil or criminal under the local law is disclosed in

complaint. Therefore, the issuance of the summon amounts to the Customary Court taking cognizance without jurisdiction.

- 6.** Call for the relevant record.
- 7.** Issue notice to the respondent, returnable by 4(four) weeks.
- 8.** The petitioner to take steps for service of notice upon the respondent by registered post with AD as well as by usual process within 1(one) week from today.
- 9.** In the meantime, the impugned 3rd summons dated 18.06.2025, issued by the Customary Court of Diking Village, East Siang District, Pasighat, to the petitioner by re-fixing a Kebang on 05.08.2025, shall remain stayed till the next returnable date.
- 10.** List the matter after 4(four) weeks.

JUDGE

Comparing Assistant