

GAHC040012952024



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

Case No. : WP(C)/435/2024

Tarang Yangfo and 3 Ors
Son of Late Sake Yangfo, permanent resident of Yangfo Village, Po and PS
Chayangtajo, District East Kameng, Arunachal Pradesh. 2: Vikash Yangfo

Age:

Occupation :

Son of Shri Kasung Yangfo
permanent resident of Yangfo Village
PO and PS Chayangtajo
District East Kameng
Arunachal Pradesh.

3: Kama Yangfo

Age:

Occupation :

Son of Shri S Yangfo
permanent resident of Yangfo Village
PO and PS Chayangtajo
District East Kameng
Arunachal Pradesh.

4: Wilson Yangfo

Age:

Occupation :

Son of Shri Kame Yangfo
permanent resident of Yangfo Village
PO and PS Chayangtajo
District East Kameng
Arunachal Pradesh

VERSUS

The State of AP and 5 Ors
represented by the Secretary, RWD, PMGSY, Govt of Arunachal Pradesh, Itanagar,

Papumpare District, Arunachal Pradesh. 2:The State of Arunachal Pradesh

Age: 0

Occupation :

represented by the Chief Engineer (PMGSY) Rural Works Department

Govt of Arunachal Pradesh

C sector

Bank Tinali

Itanagar

791111 Arunachal Pradesh

3:The Superintendent Engineer

Age: 0

Occupation :

Rural Work Circle Rupa

(Tender Chairman) West Kameng District

Arunachal Pradesh.

4:The Executive Engineer cum DPIU

Age: 0

Occupation :

RWD Chayangtajo

East Kameng District

Arunachal Pradesh.

5:The Additional Deputy Commissioner

Age: 0

Occupation :

Chauangtajo

PO and PS Chayangtajo

East Kameng District

Arunachal Pradesh.

6:Tamang Yangfo

Age: 0

Occupation :

Son of Late Kojam Yangfo

resident of Yangfo Village

PO and PS Chayangtajo

District East Kameng

Arunachal Pradesh

Advocate for the Petitioner : Tania Kipa, T Nima

Advocate for the Respondent : GA (AP), SC (RWD),Gimi Tarak

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 25.09.2024

Mr. T. Kipa, learned counsel for the petitioners. Also heard Mr. G. Tarak, learned standing counsel for the RWD, representing respondent nos. 1 to 4 and Ms. G. Ete, learned Addl. Senior Govt. advocate appearing for the respondent no.5.

2. The facts relating to this writ petition is that the respondent no.6 claiming to be the land owner of 19.20 hectare land at village Hara, Yangfo under block Chayang Tajo in East Kameng district entered into a Memorandum of Understanding (MoU) dated 20.07.2023 between himself and the Government of the State through one Kaku Pangia, PIU, RWD, Chayangtajo and thereby granted the said land to the State for construction of road from Tagampue, PMGSY Road to Hara Yangfo, Package No. AR/03/03/012 and the development of VVP road in the village.

3. Accordingly, the Additional Deputy Commissioner, East Kameng district issued a land availability certificate based on which the project of rural road was initiated. The petitioners now claim their right over the land in question and by filing this writ petition under Article 226 of the Constitution of India, the petitioners have assailed the land availability certificate, procurement notice dated 05.07.2024 and for cancellation of the MoU dated 20.07.2023.

4. The petitioners herein are not claiming declaratory right as owner of the land in question and the prayer for cancellation of a MoU is *prima facie* appears to be a civil dispute. Therefore, keeping the issue of maintainability open, issue notice returnable in 4(four) weeks.

5. Requisite extra copies of the writ petition be served on the learned State and departmental counsel in 2 days.
6. The petitioners shall take steps in 2 days for service of notice on the private respondent no. 6 by registered post with A.D.
7. It is noticed from the submissions made by the learned counsel for the petitioners that a meeting of some Gaon Burah was held on 12.09.2024, claiming four villages to have inherited the land and river. There is no document appended to show that the land is recorded in the names claimed in the said declaration made on 12.09.2024.
8. From various litigations which comes before the Court time and again, it is noticed that whenever the execution of any works contract or any development work, road contraction etc. are executed or initiated, there are group of people who come to the Court claiming ownership right over the land on which the development work has been initiated. This leads to burdening the Court with litigations which are primarily civil in nature requiring adjudication of the ownership right first and then adjudicate other issues. In connection with the law by virtue of which the village authorities have been created, on a query of the Court, nothing has been pointed out about the existence of any specific provision by which a village authority is required to maintain a truthful record of ownership of the land in question under their village.
9. It is noticed that under Chapter-II of the Arunachal Pradesh (Land Settlement and Records) Act, 2000, the State Government is empowered to create revenue divisions and appoint revenue officers. Under Chapter-III of the said Act, there is a provision for title of lands, etc. Under the said chapter, the right of the Government on trees, forests etc. is also prescribed. Under Chapter-

IV of the said Act, provisions for survey and settlement of land revenue is provided for and under Chapter-IV of the said Act, there are provisions for maintenance of land records including preparation of field index and register of mutations.

10. From the facts as appears from this case, as no register of mutations has been produced by the petitioners, the Court is compelled to draw a presumption that perhaps the State Government is not implementing the provisions of the Arunachal Pradesh (Land Settlement and Records) Act, 2000. In the absence of any official records of the ownership of the land in the State of Arunachal Pradesh, the Court finds that there are hundreds of litigations in this Court where people have filed writ petitions claiming their entitlement to certain plots of land wherever any development activity by the State has been initiated.

11. Accordingly, in order to certain as to whether the State is implementing the Arunachal Pradesh (Land Settlement and Records) Act, 2000, the Court is inclined to issue notice on the Chief Secretary of the Government of Arunachal Pradesh as well as to the Secretary, Land Management Department to apprise the Court as to what measures are in place to identify the owners of land in the State of Arunachal Pradesh.

12. The learned Addl. Senior Govt. Advocate shall transmit the downloaded copy of this order to the Chief Secretary of the Government of Arunachal Pradesh as well as to the Secretary, Land Management Department. The notice to the Land Management Department can be routed through the learned standing counsel for the said department in this Court.

13. As the matter relates to development work considering the nature of

prayer which includes determination of compensation, the Court is of the considered opinion that monetary compensation shall take care of the right of the petitioners. Therefore, in view of the provisions of Section 20A of the Specific Relief Act, relating to special provisions for contract relating to infrastructure project, the interim prayer made in this writ petition to stay tender process is refused.

14. List after 4(four) weeks.

JUDGE

Comparing Assistant