

GAHC040015152024



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

Case No. : CRP/50/2024

Maru Potom
permanent resident of Village Sartam, PO and PS Tali, Kra Daadi District, Arunachal Pradesh and presently residing at Kurujuli Colony, Papunallah, PS Papu Hill, PO Naharlagun, Papum Pare District, Arunachal Pradesh.

VERSUS

Yukar Tapong
Son of Late Yukar Tari, Jully Road Tinali, Papu Nallah, Naharlagun, PO Naharlagun, PS Papu Hill, Papum Pare District, Arunachal Pradesh.

Advocate for the Petitioner : Vijay Jamoh, B Padung

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG

ORDER

Date : 12.11.2024

Heard Mr. V. Jamoh, learned counsel for the petitioner.

By filing this application under Article 227 of the Constitution of India, the petitioner has challenged the legality and validity of the impugned *ex-parte* judgment and order dated 27.08.2024, passed by the customary Court of Gaon Burah, Itanagar Capital Complex Circle, Naharlagun whereby the said customary

Court passed an order that the petitioner shall be liable to give back 8 (eight) Mithun including mother or fine of Rs. 4,20,000/- (Rupees four lakhs twenty thousand) and imposed a cost of penalty of Rs. 50,000/- (Rupees Fifty thousand) only to the customary Court Gaon Burah (G.B.) for avoiding, neglecting the Kebang/MEL order. The petitioner also challenged the legality and validity of the order No. EAC/NLG/Estate-01/79/2023/729, dated 30.09.2024, whereby the Extra Assistant Commissioner, Naharlagun, took cognizance of the Execution Suit No. 02/2024.

It is submitted that the area Papu Nallah where the petitioner and the respondent reside falls under the jurisdiction of Itanagar Municipal Corporation Ward No.-13 which means that it comes under the urban area and as per Rule 42 of the Assam Frontier (Administration of Justice) Regulation, 1945, the village authority can impose a fine up to Rs. 5000/- only, however, in the instant case, the customary Court of Gaon Burah, Itanagar Capital Complex Circle, Naharlagun exceeded the pecuniary jurisdiction vested on it. Not only that the respondent has file an Execution Petition before the Extra Assistant Commissioner, Naharlagun and by order dated 05.11.2024, the Extra Assistant Commissioner, Naharlagun proceeded with the Execution Petition and directed the petitioner to pay the decretal amount of Rs. 4,20,000/- failing which the private land of the petitioner measuring 10x15 metres located at Korjuli will be attached for realization of the decretal amount without any power and jurisdiction.

Issue notice, returnable by 3 (three) weeks.

Petitioner shall take steps for service of notice upon the respondent by registered post with A/D as well as by usual process within a week from today.

List it after 3 (three) weeks.

Having regards to the contentions made and the submissions made by the learned counsel for the petitioner, it is provided that the operation of the impugned *ex-parte* judgment and order dated 27.08.2024 passed by the customary Court of Gaon Burah, Itanagar Capital Complex Circle, Naharlagun and the order dated 05.11.2024, passed by the Extra Assistant Commissioner, Naharlagun shall remain stayed till the next returnable date.

JUDGE

Comparing Assistant