

GAHC040015782024



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

Case No. : CRP/52/2024

Teto Taba and Anr
Son of Late Tote Taba, Chirne Village, PO and PS Basar, Leparada District,
Arunachal Pradesh. 2: Tei Taba
Age:
Occupation :
Son of Late Tote Taba
Chirne Village
PO and PS Basar
Leparada District
Arunachal Pradesh

VERSUS

The Deputy Commissioner and 3 Ors
Basar, Leparada District, Arunachal Pradesh. 2:The Village Authority
Age: 0
Occupation :
Soi village
Leparada District
Basar
Arunachal Pradesh represented by its Head Gaon Burah
Shri Henken Basar
Village Soi
Basar
Leparada District
Arunachal Pradesh.

3:Gogam Basar
Age: 0
Occupation :
Son of Late Migo Basar
Chirne Village
PO and PS Basar

Leparada District
Arunachal Pradesh.

4:Gokar Basar
Age: 0
Occupation :
EX MLA
29th Basar (ST) Assembly Constituency
Son of Late Migo Basar
Chirne Village
PO and PS Basar
Leparada District
Arunachal Pradesh

Advocate for the Petitioner : Petitioner in Person,

Advocate for the Respondent : GA (AP),

-BEFORE-

HON'BLE MR. JUSTICE KARDAK ETE

19.11.2024

Heard Mr. T. Taba, learned counsel for the petitioners appearing in-person and Ms. T. Wangmo, learned State counsel for the State respondents.

2. By filing this application under Article 227 of the Constitution of India, the petitioners have assailed the 3rd Porwana dated 13.11.2024 vide Memo No. DC/LRD/LK-176/2023-24/553 issued by the Head Gaon Burah of Soi Village, whereby the petitioners and the respondent Nos. 3 & 4 have been directed to attain the Keba which is scheduled to be held on 20.11.2024 at Chirne Dere, Basar. The petitioners have also challenged the complaint dated 09.09.2024, 18.09.2024 and also the impugned Porwana issued by the aforementioned Head Gaon Burah of Soi village.

- 3.** Issue notice returnable within a week.
- 4.** Since Ms. T. Wangmo, learned State counsel entered appearance and accepted notice on behalf of respondent No. 1, no formal notice need be issued to the respondent No. 1. However, extra copies of the application be furnished to her during the course of the day.
- 5.** The petitioners to take steps for service of notice upon private respondent Nos. 2, 3 and 4 by registered post with A/D as well as by usual process within 2 (two) days from today.
- 6.** Heard on the interim prayer.
- 7.** The learned counsel for the petitioners in-person submits that the impugned Porwana has been issued by the respondent No. 2 i.e. Head Gaon Burah of Soi village without having jurisdiction. He submits that the dispute falls within the jurisdiction of the Chirne Village which relates to encroachment of 4 mtrs towards the Right of Way (for short, 'RoW')/ approach road of the petitioners. The petitioners and the private respondent Nos. 3 & 4 are also from Chirne Village. The Chirne villages has its own village authority headed by Head Gaon Burah who has the jurisdiction to try any dispute in terms of the provisions of the Assam Frontier (Administration of Justice) Regulation, 1945. Therefore, since the proposed Keba has been entrusted with the Head Gaon Burah of other village, namely, Soi village who does not have the jurisdiction, the impugned Porwana dated 13.11.2024 vide Memo No DC/LRD/LK-176/2023-24/553 issued by the Head Gaon Burah of Soi Village may be stayed.
- 8.** Ms. T. Wangmo, learned State counsel submits that she may be

granted some time to obtain instruction with regard to the jurisdiction of the Head Gaon Burah of Soi village *viz-a-viz* Chirne Village as the dispute stated to be under Chirne Village.

9. Having considered that the dispute *prima facie* falls under the Chirne village with separate village authorities having jurisdiction to try any disputes and the parties appears to be from the said Chirne village as well as the impugned Porwana has been issued by HGB of Soi village, I deem it appropriate to stay the impugned Parawana dated 13.11.2024 vide Memo No DC/LRD/LK-176/2023-24/553 issued by the Head Gaon Burah of Soi Village pending placing of instruction by the learned State Counsel Ms. T. Wangmo.

10. Accordingly, till the next date, no Keba shall be conducted in terms of the 3rd Parwana dated 13.11.2024 vide Memo No DC/LRD/LK-176/2023-24/553 issued by the Head Gaon Burah of Soi Village.

11. The learned Stae counsel shall positively place the instruction on the next date fixed.

List the matter on 28.11.2024.

JUDGE

Comparing Assistant