

GAHC040017682025

2026:GAU-AP:429



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

Case No. : CRP/102/2025

Smti Techhi Menia
Wife of Shri T M Tara, resident of E Sector, Naharlagun, PO and PS Naharlagun,
Papum Pare District, Arunachal Pradesh.

VERSUS

Taba Tem
Son of Late Taba Tado, resident of Model Village, PO and PS Naharlagun, Papum
Pare District, Arunachal Pradesh.

BEFORE
HON'BLE MR. JUSTICE BUDI HABUNG

Advocate for the petitioner	: Mr. D. Kamduk
Advocate for the Respondent	: Mr. K. Tama, Id. Adv.
Date on which Judgment is reserved	: 16.03.2026
Date of Hearing	: 16.03.2026
Date of Judgment and Order	: 05.05.2026
Whether the pronouncement is of the Operative part of the Judgment? :No	
Whether the full Judgment has been pronounced ? : Yes	

JUDGMENT & ORDER

(CAV)

Heard Mr. D. Kamduk, learned counsel for the petitioner. Also heard Mr. K. Tama, learned counsel for the sole respondent.

2. This civil revision petition is filed under Section 115 of the Code of Civil Procedure, 1908, challenging the MEL order dated 30.08.2025 passed by the village authority of Model Village, Naharlagun. By the said order, the customary court, after recording the statement of the complainant side and noting the absence of the respondent, refrained from deciding the dispute on merits and advised/recommended the petitioner/complainant to approach the regular civil court for adjudication.

3. Mr. Kamduk, learned counsel for the petitioner, submits that the petitioner had filed a complaint dated 31.07.2025 against the respondent before the village authority of Model Village, Naharlagun. The ground for the complaint is that the respondent denied that his step-father, Late Taba Tagra, had any immovable property at Model Village, Naharlagun. Upon receipt of the complaint, the customary court issued notice dated 17.08.2025 by way of serving Parwana to the respondent for his appearance on dated 30.08.2025. In response, the respondent participated in the MEL proceedings before the customary court by filing a written statement on 28.08.2025. Upon receipt of the statement/objection from the respondent on dated 28.08.2025, the MEL was conducted at Model Village, Naharlagun on dated 30.08.2025. However, the respondent did not attend the MEL proceeding. During the MEL proceedings, the petitioner was heard, and the statement of one of the witnesses was recorded, who confirmed and clarified that the respondent had received Rs. 1,00,000/-

(Rupees one lakh only) on behalf of Late Taba Tagra from the petitioner as consideration for land measurement of 4000 sq. mtrs located at Model Village, Naharlagun. However, despite hearing the witnesses and parties, the village authority refrained from passing a final decision and instead directed the parties to approach the Civil Court of competent jurisdiction.

4. He further submits that under Section 44 of the Assam Frontier (Administration of Justice) Regulation (Amendment) Act, 2023, the village authority may take *ex-parte* decision if one of the disputing parties does not turn up or remain absent willfully on three consecutive times after giving not less than 30 days on each occasion of reasonable opportunity of being heard. Section 44 of the Assam Frontier (Administration of Justice) Regulation (Amendment) Act, 2023 being relevant is reproduced bellow:

“(4) The Village authority or the inter-village territorial council or Apex Council, as the case may be, may pronounce or take an ex-parte decision, if one of the disputing parties does not turn up or remain absent willfully on three consecutive times after giving not less than thirty days on each occasion of reasonable opportunity of being heard.”

5. In the instant case, the respondent participated in the trial proceedings before the customary court by filing his written statement; however, on the date of hearing, i.e., on dated 30.08.2025, he deliberately remained absent. Under the circumstances, as per the aforesaid provision of AFR, the customary court ought to have pronounced or taken an *ex-parte* decision.

6. On the contrary, Mr. Tama, learned counsel for the respondent, submitted that the order dated 30.08.2025 is a final decision of the customary court of Model Village, Naharlagun, rendered after hearing the parties in a complaint case. He further submitted that if the petitioner is aggrieved by such a final

decision, an appeal lies, and therefore, the petitioner is not without remedy.

7. He also submitted that any person aggrieved by a decision of a village authority may appeal to the Assistant Commissioner or to the Deputy Commissioner as per the value of the suit. And as per the Arunachal Pradesh Civil Courts Act, 2022, such appeals lie before the Courts of Civil Judge (Junior Division), Civil Judge (Senior Division), Additional District Judge, or District Judge, as the case may be, in accordance with their territorial and pecuniary jurisdiction. Section 46(1) of the Assam Frontier (Administration of Justice) Regulation Act being relevant is reproduced bellow:

“Any person aggrieved by a decision of a village authority may appeal to the Assistant Commissioner in suits not exceeding Rs. 500/- in value and to the Deputy Commissioner in suits exceeding that value.”

8. However, in the instant case, the petitioner, instead of filing an appeal before the learned Civil Judge, has preferred the present revision petition before this Court, which according to the learned counsel for the petitioner is not maintainable.

9. In support of his submission, the learned counsel for the respondent relied upon the decision of this Court in ***Tony Ete vs. Gongam Geyi [CRP No. 13/2021 dated 07.12.2021]***, wherein it was held that where there is a specific provision for appeal in the statute, a revision petition is not maintainable. It was further observed that without exhausting the remedy of appeal prescribed under the statute, the petitioner cannot prefer a revision petition before this Court.

10. From the pleadings of the parties, the following questions arise for consideration:

- (i) Whether the present revision petition is maintainable against such an order of the customary court;
- (ii) Whether the customary court failed to exercise the jurisdiction vested in it; and
- (iii) Whether the matter deserves to be remanded back to the customary court for decision on merits.

11. On perusal of the impugned order dated 30.08.2025, it is evident that the customary court has not finally adjudicated the rights of the parties. It merely recorded certain observations and thereafter declined to decide the matter, advising the petitioner to approach the regular civil court of competent jurisdiction. Such an order does not amount to a final decision or decree, nor can it be treated as a proper adjudication of the dispute between the parties. Therefore, the contention of the respondent that an appeal lies against the said order is misconceived, as there is no conclusive determination of the rights of the parties.

12. In the present case, as seen above, the customary court took up the matter for decision, thus the customary court had an occasion to decide the matter after affording adequate opportunity of hearing as per the provision of the Arunachal Pradesh Civil Court Act, but it fails to exercise the power/jurisdiction vested in it, such failure squarely attracts Section 115 of the Code of Civil Procedure.

13. Further, coming to the question of failure to exercise jurisdiction, it is not disputed that the customary court assumed jurisdiction by issuing notice upon receipt of the complaint. The respondent participated in the proceedings and entered appearance by filing a written statement. Thereafter, the evidence of

the complainant side was recorded; however, the respondent chose not to appear during the MEL proceedings. Once the customary court seized jurisdiction and commenced proceedings, it was incumbent upon it to proceed in accordance with law, even in the absence of the respondent, particularly when an opportunity had already been afforded and the respondent had initially participated. However, instead of deciding the dispute on merits, the customary court declined to adjudicate the matter on the ground of non-cooperation of the respondent and merely advised the petitioner to approach the civil court. Such a course of action is unknown to law. A court vested with jurisdiction cannot decline or abdicate its duty to decide a dispute after recording evidence and hearing the parties merely because one party remains absent or disputes the claim. Therefore, this Court finds that the customary court of Model Village, Naharlagun has failed to exercise the jurisdiction vested in it, thereby attracting Section 115 of the CPC.

14. Considering the nature of the dispute and the stage at which the proceedings stood before the customary court, and in view of the fact that the proceedings had already commenced and evidence of the complainant side had been partly recorded, and that the respondent had knowledge of the proceedings and in fact participated by filing written statement/objection but chose not to participate the proceeding, the proper course would have been for the customary court to proceed *ex-parte* after due compliance with the procedure prescribed under the Arunachal Pradesh Civil Courts Act and the Assam Frontier (Administration of Justice) Regulation Act (as amended from time to time), and to decide the matter on merits based on the available evidence.

15. Hence, this Court is of the considered view that remand of the matter is

necessary so that the customary court may exercise its jurisdiction properly.

16. Accordingly, this civil revision petition is allowed. The impugned order dated 30.08.2025 passed by the customary court of Model Village, Naharlagun is set aside to the extent that it declines to decide the dispute and recommends the parties to approach the civil court.

17. As a result, the matter is remanded back to the customary court of Model Village, Naharlagun having jurisdiction, with a direction that it shall restore the proceedings to its original file and thereafter, issue fresh summons/notice/Parwana to the respondent in accordance with the provisions of the Arunachal Pradesh Civil Courts Act and the Assam Frontier (Administration of Justice) Regulation Act (as amended from time to time), granting reasonable opportunity of hearing.

18. It is further directed that in the event of non-appearance of the respondent despite due service as provided under the Arunachal Pradesh Civil Court Act, the customary court shall be at liberty to proceed *ex-parte* and decide the dispute in accordance with law.

19. With the above observations, the revision petition stands disposed of.

JUDGE

Comparing Assistant