

GAHC040018132025



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

Case No. : IA(C)/266/2025

Mojee Karlo

Son of Shri Marmo Karlo, resident of Jipu Village, PO and PS Likabali, Lower Siang District, Arunachal Pradesh.

VERSUS

Doi Riram and 11 Ors

Son of Late Jumdo Riram, permanent resident of Jipu Village, PO and PS Likabali, Lower Siang District, Arunachal Pradesh. 2:Yigo Karlo

Age: 75

Occupation :

Son of Late Tayi Karlo
permanent resident of Jipu Village
PO and PS Likabali
Lower Siang District
Arunachal Pradesh.

3:Karmo Tacho

Age: 68

Occupation :

Son of Late Takar Tacha
permanent resident of Jipu Village
PO and PS Likabali
Lower Siang District
Arunachal Pradesh.

4:Bigo Param

Age: 60

Occupation :

Son of Shri Gibi Param
permanent resident of Jipu Village
PO and PS Likabali
Lower Siang District

Arunachal Pradesh.

5:Taba Taipodia

Age: 70

Occupation :

Son of Late Yumduk Taipodia

permanent resident of Jipu Village

PO and PS Likabali

Lower Siang District

Arunachal Pradesh.

6:Goi Karlo

Age: 44

Occupation :

Son of Shri Yigo Karlo

permanent resident of Jipu Village

PO and PS Likabali

Lower Siang District

Arunachal Pradesh.

7:Jumken Mara

Age: 40

Occupation :

Son of Shri Yumjum Mara

permanent resident of Jipu Village

PO and PS Likabali

Lower Siang District

Arunachal Pradesh.

8:Moli Tacha

Age: 42

Occupation :

Son of Shri Karmo Tacha

permanent resident of Jipu Village

PO and PS Likabali

Lower Siang District

Arunachal Pradesh.

9:Bika Param

Age: 55

Occupation :

Son of Shri Gibi Param

permanent resident of Jipu Village

PO and PS Likabali

Lower Siang District

Arunachal Pradesh.

10:Takap Karlo

Age: 54
Occupation :
Son of Yigo Karlo
permanent resident of Jipu Village
PO and PS Likabali
Lower Siang District
Arunachal Pradesh.

11:Smti Tobom Riram
Age: 36
Occupation :
Wife of Shri Doi Riram
permanent resident of Jipu Village
PO and PS Likabali
Lower Siang District
Arunachal Pradesh.

12:Smti Yapu Param
Age: 48
Occupation :
Wife of Shri Bibom Param
permanent resident of Jipu Village
PO and PS Likabali
Lower Siang District
Arunachal Pradesh

Advocate for the Petitioner : Adam Tatak, Pate Mesi Lomdak, Goyi Taba Raju, Tukrin Ligu, Tonni Gammi, Tanur Gao, Amy Talom

Advocate for the Respondent : Tagum Jamoh,

Linked Case : WP(C)/287/2025

Doi Riram and 11 Ors
Age: 37
Occupation :
Address: Son of Late Jumdo Riram
permanent resident of Jipu Village
PO and PS Likabali
Lower Siang District
Arunachal Pradesh.
2: Yigo Karlo
Age: 75

Occupation :

Address: Son of Late Tayi Karlo
permanent resident of Jipu Village
PO and PS Likabali
Lower Siang District
Arunachal Pradesh.

3: Karmo Tacha

Age: 68

Occupation :

Address: Son of Late Takar Tacha
permanent resident of Jipu Village
PO and PS Likabali
Lower Siang District
Arunachal Pradesh.

4: Bigo Param

Age: 60

Occupation :

Address: Son of Shri Gibi Param
permanent resident of Jipu Village
PO and PS Likabali
Lower Siang District
Arunachal Pradesh.

5: Taba Taipodia

Age: 70

Occupation :

Address: Son of Late Yumduk Taipodia
permanent resident of Jipu Village
PO and PS Likabali
Lower Siang District
Arunachal Pradesh.

6: Goi Karlo

Age: 44

Occupation :

Address: Son of Shri Yigo Karlo
permanent resident of Jipu Village
PO and PS Likabali
Lower Siang District
Arunachal Pradesh.

7: Jumken Mara

Age: 40

Occupation :

Address: Son of Shri Yumjum Mara
permanent resident of Jipu Village

PO and PS Likabali
Lower Siang District
Arunachal Pradesh.

8: Moli Tacha
Age: 42
Occupation :
Address: Son of Shri Karmo Tacha
permanent resident of Jipu Village
PO and PS Likabali
Lower Siang District
Arunachal Pradesh.

9: Bika Param
Age: 55
Occupation :
Address: Son of Shri Gibi Param
permanent resident of Jipu Village
PO and PS Likabali
Lower Siang District
Arunachal Pradesh.

10: Takap Karlo
Age: 54
Occupation :
Address: Son of Yigo Karlo
permanent resident of Jipu Village
PO and PS Likabali
Lower Siang District
Arunachal Pradesh.

11: Smti Tobom Riram
Age: 36
Occupation :
Address: Wife of Shri Doi Riram
permanent resident of Jipu Village
PO and PS Likabali
Lower Siang District
Arunachal Pradesh.

12: Smti Yapu Paramage
Age: 48
Occupation :
Address: Wife of Shri Bibom Param
permanent resident of Jipu Village
PO and PS Likabali
Lower Siang District
Arunachal Pradesh.

VERSUS

The State of AP and 4 Ors

Age: 0

Occupation :

Address:represented by the Chief Secretary

Govt of Arunachal Pradesh

Itanagar.

2:The Principal Chief Conservator of Forest

Age: 0

Occupation :

Address:Department of Environment

Forests and Climate Change

Govt of Arunachal Pradesh

Itanagar.

3:The Deputy Commissioner

Age: 0

Occupation :

Address:Lower Siang District

Arunachal Pradesh.

4:The Divisional Forest Officer

Age: 0

Occupation :

Address:Lower Siang District

Arunachal Pradesh.

5:Forest Range Officer

Age: 0

Occupation :

Address:Gogar Forest Range

Lower Siang District

Arunachal Pradesh.

Advocate for : Tagum Jamoh

Advocate for : GA (AP) appearing for The State of AP and 4 Ors: Advocate ,

,

,

, appearing for 2,

3,

4,

5, respectively.

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

20.03.2026

Heard Ms. A. Talom, learned counsel for the applicants and Mr. T. Jamoh, learned counsel for all the opposite parties.

2. This application, under Order I Rule 10(2) of the CPC read with Article 226 of the Constitution of India, the applicant, namely Mojee Karlo, has prayed for impleading him as respondent No. 6, in W.P.(C) 287(AP)/2025, filed by the opposite parties herein.

3. Ms. Talom, learned counsel for the applicant, submits that the opposite parties have filed a writ petition, being W.P.(C) No. 287(AP)/2025. In the said writ petition, the petitioners therein have prayed for issuing direction to the State respondents No. 1 to 5 to issue No Objection Certificate (NOC hereinafter), for creation of the Proposed Jipu-Dodi village, as census village, within the Gogar Reserved Forest, Lower Siang District, Arunachal Pradesh, for rehabilitation and resettlement of the villagers of Old Jipu village, who were displaced by the fury of unforgiving flood in the village previously located within the same Reserved Forest. The opposite parties herein, in the said writ petition also prayed for issuing direction to the

respondent authorities to accord, extend and allow all the rights, privilege and benefits recognised for the Scheduled Tribe Forest Dwellers, under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, to them and their families.

3.1. Ms. Talom also submits that the applicant is a public-spirited person and a bonafide resident of Jipu village and he is actively involved in protection and preservation of forest lands, more particularly Dipa Reserved Forest in the State of Arunachal Pradesh.

3.2. Ms. Talom further submits that upon his information, representation and initiative, the concerned forest authorities have taken cognizance of large-scale encroachment over reserved forest land, under the guise of 2015 flash flood victims and consequently, various Land Possession Certificates (LPC hereinafter) were cancelled by the competent authority issued against the illegal encroacher in Dipa Reserved Forest.

3.3. Ms. Talom also submits that public interest is involved in the said writ petition and that the opposite parties' village is located towards the upper side of the hill, whereas the present applicant is living in a village situated at the lower side of the hill and if the opposite parties are granted the NOC, they will cause destruction of forest and the same will affect the rights of the persons living in the lower side of the hill and as such, the present applicant is a necessary party in the said writ petition and therefore, she has contended to allow this application.

4. Per-contra, Mr. Jamoh, learned counsel for all the opposite parties, has vehemently opposed the application. He submits that the applicant is not a public-spirited person, rather he is an encroacher of the forest land and

that he had constructed one RCC building inside the reserved forest, without there being any permission.

4.1. Mr. Jamoh also submits that, on the other hand, the opposite parties are victims of flash flood, that took place in the village, in the year 2015, in which the said village was completely washed away and therefore, they have shifted to the present Jipu Dodi and earmarked a vast area as a village community land, with permission from the authority concerned and they were also granted LPC, but due to some procedural lapses, their LPCs were cancelled.

4.2. Mr. Jamoh further submits that the petitioners in the writ petition have prayed for issuing direction for conducting census in the village. He also pointed out that the petitioners in the writ petition have never claimed any relief against the applicant herein, except the reliefs being sought for against the State respondents and as such, the applicant herein is neither a necessary party nor a proper party in the said writ petition.

4.3. Mr. Jamoh also submits that the applicant herein has filed the application only to cause harassment to the petitioners in the said writ petition, due to some personal grudges and therefore, he has not approached this court with clean hand and that he also violated the *status quo* order passed by this court in the writ petition (C) No. 287(AP)/2025 and therefore, it is contended to dismiss the application.

5. Having heard the submissions of learned counsel for both the parties, this court has carefully gone through the application and the document placed on record, and also gone through the prayer made in the writ petition.

6. As stated herein above, the writ petitioners, being WP(C) No. 287(AP) 2025 was filed against the five states respondent, mainly seeking following relief(s):-

- (i) To issue direction to the state respondents to issue No Objection Certificate (NOC hereinafter), for creation of the Proposed Jipu-Dodi village, as census village, within the Gogar Reserved Forest, Lower Siang District, Arunachal Pradesh, for rehabilitation and resettlement of the villagers of Old Jipu village, who were displaced by the fury of unforgiving flood in the village previously located within the same Reserved Forest.
- (ii) To issue direction to the respondent authorities to accord, extend and allow all the rights, privilege and benefits recognised for the Scheduled Tribe Forest Dwellers, under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, to them and their families.

7.It is to be noted here that while dealing with the issue of impleadment of a party in a proceeding, Hon'ble Supreme Court has in the case of **Kasturi vs. Iyyamperumal**, reported in (2005) 6 SCC 733, held as under:

“15. As discussed herein earlier, whether Respondents 1 and 4 to 11 were proper parties or not, the governing principle for deciding the question would be that the presence of Respondents 1 and 4 to 11 before the court would be necessary to enable it effectually and completely to adjudicate upon and settle all the questions involved in the suit. As

noted herein earlier, in a suit for specific performance of a contract for sale, the issue to be decided is the enforceability of the contract entered into between the appellant and Respondents 2 and 3 and whether contract was executed by the appellant and Respondents 2 and 3 for sale of the contracted property, whether the plaintiffs were ready and willing to perform their part of the contract and whether the appellant is entitled to a decree for specific performance of a contract for sale against Respondents 2 and 3. It is an admitted position that Respondents 1 and 4 to 11 did not seek their addition in the suit on the strength of the contract in respect of which the suit for specific performance of the contract for sale has been filed. Admittedly, they based their claim on independent title and possession of the contracted property. It is, therefore, obvious as noted herein earlier that in the event, Respondents 1 and 4 to 11 are added or impleaded in the suit, the scope of the suit for specific performance of the contract for sale shall be enlarged from the suit for specific performance to a suit for title and possession which is not permissible in law. In the case of *Vijay Pratap v. Sambhu Saran Sinha* [(1996) 10 SCC 53] this Court had taken the same view which is being taken by us in this judgment as discussed above. This Court in that decision clearly held that to decide the right, title and interest in the suit property of the stranger to the contract is beyond the scope of the suit for specific performance of the contract and the same cannot be turned into a regular title suit. Therefore, in our view, a third party or a stranger to the contract cannot be added so as to convert a suit of one character into a suit of different

character. As discussed above, in the event any decree is passed against Respondents 2 and 3 and in favour of the appellant for specific performance of the contract for sale in respect of the contracted property, the decree that would be passed in the said suit, obviously, cannot bind Respondents 1 and 4 to 11. It may also be observed that in the event, the appellant obtains a decree for specific performance of the contracted property against Respondents 2 and 3, then, the Court shall direct execution of deed of sale in favour of the appellant in the event Respondents 2 and 3 refusing to execute the deed of sale and to obtain possession of the contracted property he has to put the decree in execution. As noted herein earlier, since Respondents 1 and 4 to 11 were not parties in the suit for specific performance of a contract for sale of the contracted property, a decree passed in such a suit shall not bind them and in that case, Respondents 1 and 4 to 11 would be at liberty either to obstruct execution in order to protect their possession by taking recourse to the relevant provisions of CPC, if they are available to them, or to file an independent suit for declaration of title and possession against the appellant or Respondent 3. On the other hand, if the decree is passed in favour of the appellant and sale deed is executed, the stranger to the contract being Respondents 1 and 4 to 11 have to be sued for taking possession if they are in possession of the decretal property.”

7.1. Also, the same view is reiterated by a two Judges Bench of Hon’ble Supreme Court in the case of **Gurmit Singh vs. Kiran Kant Robinson and Ors.**, reported in AIR 2019 SC 3577.

7.2. Notably, the decision in *Kasturi (supra)*, is a decision of a three Judges Bench. The principle that can be deduced from *Kasturi (supra)* and *Gurmit Singh (supra)*, is that following two tests are to be satisfied for determining the question as to who is a necessary party, and the tests are:

- (i) there must be a right to some relief against such party in respect of the controversies involved in the proceedings;
- (ii) no effective decree can be passed in the absence of such party.

7.3. Further, in the case of *Vidur Impex & Traders (P) Ltd. vs. Tosh Apartments (P) Ltd.*, reported in (2012) 8 SCC 384, Hon'ble Supreme Court has dealt with the issue as under:-

“41. Though there is apparent conflict in the observations made in some of the aforementioned judgments, the broad principles which should govern disposal of an application for impleadment are:-

41.1. The court can, at any stage of the proceedings, either on an application made by the parties or otherwise, direct impleadment of any person as party, who ought to have been joined as plaintiff or defendant or whose presence before the court is necessary for effective and complete adjudication of the issues involved in the suit.

41.2. A necessary party is the person who ought to be joined as party to the suit and in whose absence an effective decree cannot be passed by the court.

41.3. A proper party is a person whose presence would enable the court to completely, effectively and properly adjudicate upon all matters and issues,

though he may not be a person in favour of or against whom a decree is to be made.

41.4. If a person is not found to be a proper or necessary party, the court does not have the jurisdiction to order his impleadment against the wishes of the plaintiff.

41.5. In a suit for specific performance, the court can order impleadment of a purchaser whose conduct is above board, and who files application for being joined as party within reasonable time of his acquiring knowledge about the pending litigation.

41.6. However, if the applicant is guilty of contumacious conduct or is beneficiary of a clandestine transaction or a transaction made by the owner of the suit property in violation of the restraint order passed by the court or the application is unduly delayed then the court will be fully justified in declining the prayer for impleadment.”

8.Indisputably, in the instant case, no relief is being claimed against the applicant herein, by the opposite parties herein, in the Writ Petition (C) No. 287(A.P.)/2025, and also admittedly, he is not a necessary party in the said proceeding. From the prayer and statement and averment made in the writ petition also it appears that entirely the relief is being sought for therein, is from the state respondents only. The applicant is no way connected in granting of relief(s) so prayed for in the writ petition and as such, the applicant herein cannot be a necessary party in the same.

8.1. Now, the question is whether the applicant is a proper party as contended by Ms. Talom, learned Counsel for the applicant.

8.2. It is however, well settled in the case of **Vidur Impex & Traders (P) Ltd. (supra)**, especially in paragraph No. 41.3, a proper party is a person whose presence would enable the Court to completely, effectively and properly adjudicate upon all matters and issues, though he may not be a person in favour of or against whom a relief is being sought for.

8.3. In the instant case, admittedly the applicant is a stranger. Though, the learned counsel for the applicant submits that the petitioner is a public spirited person and that at his instance the earlier LPC granted to them was cancelled and that the opposite parties are encroachers in the Reserve Forest, and that if LPC is granted they will cause damage to the Reserve Forest and thereby cause damage to the land and property of the applicant, yet it the documents placed record indicates that the opposite parties herein had filed FIR against him for encroaching forest land and for construction of RCC dwelling house inside Reserve Forest without permission of the authority. It is also being contended by Mr. Jamoh that the right of the opposite parties herein is protected under the Schedule Tribes and Other Traditional Forest Dwellers (recognition of Forest Rights) Act, 2006.

9. Thus, applying the proposition of law laid down in paragraph No. 14.3 of **Vidur Impex & Traders (P) Ltd. (supra)**, to the given facts and circumstances on the record and as discussed here in above, it can safely be concluded that the applicant is not a proper party in the said writ proceeding and the writ proceeding can completely, effectively and properly be adjudicated upon all matters involved therein without the applicant being impleaded as a party.

10. Under, the given facts and circumstances, this Court finds this application devoid of merit and accordingly, the same stands dismissed.

11. In terms of above, this application stands disposed of.

J U D G E

Comparing Assistant