

ITEM NO.1

COURT NO.3

SECTION IIIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Original Suite (s). No(s). 2/1988

STATE OF ASSAM

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(office report for direction)

WITH ORGNL.SUIT No. 1/1989

(Office Report for Direction)

C.A. No. 4020/1999

(Office Report for Direction)

C.A. No. 4021/1999

(Office Report for Direction)

Date: 24/09/2014 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR

HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s) Mr. Krishnan Venugopal, Sr. Adv.
(O.S.2/1988 & Mr. Riku Sarma, Adv.
O.S.1/1989) Mr. Navnit Kumar, Adv.
Ms. Vartika Walia, Adv.
For M/s Corporate Law Group, Adv.

(C.A.No.4020/1999) Mr. Anil Shrivastav, Adv.
Mr. Rituraja Biswas, Adv.

(C.A.No.4021/1999) Mr. Sanjeev Kumar, Adv.

For Respondent(s) Mr. Ranjit Kumar, SG (U.O.I.)
Ms. Binu Tamta, Adv.
Mr. S. Wasim A. Qadri, Adv.
Ms. Sushma Suri, Adv.

Mr. K.M. Balgopal, Adv.Gen. (Nagaland)
Mr. Kailash Vasdey, Sr. Adv.
Mr. A.P. Mukundan, Adv.
Ms. K. Enatoli Sema, Adv.
Mr. Amit Kumar Singh, Adv.
Mr. Gopal Singh, Adv.
Mr. Prakash T.A., Adv.
Mr. T. Koza, Adv.
Mr. Nitya Nambiar, Adv.

Mr. Sanjay Shandilya, Adv.
Mr. Balaji Srinivasan, Adv.

Mr. Anil Shrivastav, Adv. (Arunachal Pradesh)
Mr. Rituraja Biswas, Adv.

Mr. Krishnan Venugopal, Sr. Adv.
Mr. Riku Sarma, Adv.
Mr. Navnit Kumar, Adv.
Ms. Vartika Walia, Adv.
For M/s Corporate Law Group, Adv.

Mr. Mohit D. Ram, Adv.

Mr. P. Parmeswaran, Adv.

Mr. A. S. Bhasme, Adv.

Ms. Ranjitha Ramchandran, Adv.
Mr. Nitish Massey, adv.
Ms. Aditya Ganju, Adv.
For Khaitan & Co.

UPON hearing the counsel the Court made the following
O R D E R

Heard.

While the Local Commission headed by Justice Tarun Chatterjee, Former Judge of this Court, was seized of the matter, this Court had by an order dated 20th August, 2010 referred the boundary dispute between the parties to Mr. Sriram Panchoo and Niranjana Bhat, senior advocates, two distinguished mediators, to make an attempt to resolve the controversy amicably by mediation. Several extensions of time granted to the mediators thereafter have culminated in a report dated 15th October, 2013 from a reading whereof it appears that the mediators have despite earnest efforts to bring out a settlement failed to do so.

When the matter came up for hearing today Mr. Krishnan Venugopal, learned senior counsel appearing for the

plaintiff-State of Assam in Suit No.2 of 1988, submitted that the proceedings in the suit have been delayed inordinately earlier on account of the appointment of a Local Commission and subsequently on account of reference made to the mediators for bringing about an amicable settlement. With the appointment of the mediators the proceedings before the Local Commission were also stayed by this Court. In the meantime Justice Tarun Chatterjee had submitted a report regarding Assam and Arunachal Pradesh dispute and made a request for being relieved of the assignment which request was accepted by us leaving Justice Tarun Chatterjee free to take up any other assignment offered to him. The position today is that the mediators have failed to bring out a settlement. The Local Commission is headless as Justice Tarun Chatterjee has been relieved of his assignment and the pleadings in the suit remain incomplete because although the plaintiff-State was permitted to amend the plaint as early as in the year 2002, the defendant-State of Nagaland has not chosen to file an amended written statement for the past nearly 11 years. Mr. Krishnan Venugopal, therefore, was perfectly justified in submitting that the proceedings in the suit have been delayed for we remain stuck with the hope of some settlement to be arrived at between the parties amicably which hope has to our dismay been belied by events that have transpired both at the ground level as also in the proceedings held before the mediators and the Local Commission.

We were in the light of the above inclined to proceed with the hearing of the suits. Mr.K.M. Balgopal, learned Advocate General appearing for State of Nagaland, however made an earnest

prayer for granting of one more opportunity to the two States to sit across the table and to explore the possibility of an amicable solution. He submitted that the State of Nagaland has always been ready and willing to negotiate a settlement that too with the help and assistance of the Ministry of Home Affairs, Government of India, which is the concerned Ministry. It is, according to Mr. Balgopal, ready to resume those talks for a possible settlement. To the credit of Mr. Venugopal we must say that even he was not averse to one final attempt being made in the direction of an amicable settlement by allowing the parties to sit across the table possibly in the presence of the worthy Home Minister of Government of India in an attempt to find a solution that is acceptable to both the States. Mr. Ranjit Kumar, learned Solicitor General, submitted that Government of India would be willing and indeed happy to provide an atmosphere conducive both for the States to sort out the difference in an amicable manner. Counsel for the parties agreed that given six weeks' time the Government of India would invite both the Chief Ministers for a possible negotiated settlement with the help and assistance of all those concerned with the said dispute.

While we are inclined to adjourn this matter by six weeks to enable the parties to make a last attempt to find a solution, we would also like the Government of India to submit a report whether or not it is possible for it to mark the boundary between the disputing states based on the maps available with the Surveyor General of India, which Mr. Venugopal describes to be the constitutional boundary maps acceptable to the State of Assam.

Our attention was drawn by learned counsel for the parties to orders dated 28th February, 2005 and 7th March, 2005 when this Court had on an earlier occasion also requisitioned the official maps from the Surveyor General's office in relation to the said dispute between the States of Assam and Arunachal Pradesh and Assam and Nagaland. A reading of the said orders show that the maps were and indeed continue to be available with the Surveyor General of India which can be useful for demarcation of the boundary between the disputant States. Mr. Balgopal no doubt has some reservations about the correctness and authenticity of the maps being maintained by the Surveyor General of India. He argued that the said maps have not been verified on the ground vis-a-vis the State of Nagaland. He submitted that subject to the State of Nagaland's objections as to the genuineness and correctness of the maps, available with the Surveyor General of India, the Government of India could examine whether any such maps can provide a basis for demarcating the boundary between the States with the help of the latest technology available in the field including satellite imageries.

In the circumstances, therefore, we would like the Government of India to submit a report on or before the next date of hearing stating whether or not it is possible for it to demarcate the boundaries between the States of Arunachal Pradesh and Assam and Assam and Nagaland on the basis of the maps available with the Surveyor General of India. The Government of India will also indicate whether it will be possible with the help of latest technology and satellite imageries to indicate the boundary

position also as on the date of the filing of the suit in 1988 and the latest position that obtains on the spot. Needful be done before the next date of hearing by the Government of India. The report may also indicate the extent of the expenditure involved in undertaking the exercise.

In Original Suit No.2 of 1988, the plaintiff-State of Assam was permitted to amend the plaint way back in December, 2002. The defendants have not despite considerable lapse of time filed amended written statement to the amended plaint. Mr. Balgopal prays for and is granted a final opportunity of six weeks to do the needful.

The Registry shall in the meantime furnish copies of the report received from Justice Tarun Chatterjee in Original Suit No.1 of 1989 to learned counsel for the parties who may respond to the same on or before the next date of hearing.

Post on Wednesday, the 3rd December, 2014.

(Mahabir Singh)
COURT MASTER

(VEENA KHERA)
COURT MASTER