

(2007) 03 GAU CK 0024
Gauhati High Court (Kohima Bench)
Case No: None

Lanu Jamir and Another

APPELLANT

Vs

Bendangtoshi (Ungma)

RESPONDENT

Date of Decision: March 14, 2007

Citation: (2007) 2 GLT 893

Hon'ble Judges: Maibam B.K. Singh, J

Bench: Single Bench

Final Decision: Allowed

Judgement

M.B.K. Singh, J.

Heard Mr. C.T. Jamir, learned Counsel appearing on behalf of the revisionists and Mr. T. Pongener, learned Counsel appearing on behalf of respondent No. 1.

2. This revision petition has been filed challenging the legality of the proceeding pending before the District Customary Court/District Dobashi Law Court, Mokokchung, Nagaland in connection with which the said Court has been taking steps for securing the attendance of the present 2 (two) revisionists before it.

3. I have perused the records. It is ascertained that on failure to secure the attendance of the said two revisionists through summons issued to them and also through summons to their relatives, the said Court issued letter dated 18.8.2006 to Unger Council Chairman and Ungma Council Chairman to produce before it the two revisionists with three representatives of each of the two revisionists on 6.9.2006 at 10 A.M. It is also ascertained that the said proceeding before the said Court was in connection with a case bearing summon No. 400 dated 11.5.2006 filed by Mr. Bendangtoshi (the respondent No. 1 herein) for the recovery of a sum of Rs. 4.93 Lakhs (Rupees four lakhs ninety three thousand) only said to have been taken from him as loan by Mr. Masachuba of Unger Village and Mrs. Imtila Longkumtser of Ungma village. Further, as per records, apparently, not knowing the whereabouts of the said two loanees, the said Court has been taking steps for securing the presence

of the two revisionists who are brothers of the said loanees.

4. The two revisionists are aggrieved by the said steps taken by the Court for securing their presence before it even after having knowledge that they are not having knowledge about the where about of the two loanees as well as about the said loan. According to them, the said Court has been proceeding with the case without jurisdiction.

5. There is no dispute that the Administration of Civil Justice in the State of Nagaland is entrusted to the Deputy Commissioner. Addl. Deputy Commissioner, Assistant to Deputy Commissioner, Customary Court constituted under Chapter-IVA of the Rules for Administration of Justice and Police in Nagaland, 1937, Dobashis and other village authorities may be appointed by the State Govt. from time to time by Notification in the official Gazette. However, as per Rule 23A of the Rules for Administration of Justice and Police in Nagaland, 1937, the Dobashis shall have jurisdiction to try and decide such civil cases only as may be referred to them by the Deputy Commissioner or Addl. Deputy Commissioner or the Assistant to the Deputy Commissioner as the case may be. Accordingly, only those civil cases referred to them by the Deputy Commissioner or Addl. Deputy Commissioner or the Assistant to the Deputy Commissioner as the case may be are to be tried and decided by the Dobashis.

6. It is the case of the two revisionists that the case before the District Dobashis Court, Mokokchung, Nagaland was never referred to it by any competent authority. On perusal of the records, it is ascertained that no case was filed formally by the present respondent No. 1 before any of the competent authorities i.e., the Deputy Commissioner or the Addl. Deputy Commissioner or the Assistant to the Deputy Commissioner. As per records before this Court, with reference to an application submitted to the Deputy Commissioner, Mokokchung, Nagaland by the present respondent No. 1 praying purportedly for endorsement of the case to the Court of Dobashis, the Addl. Deputy Commissioner, Mokokchung passed an order on 9.5.2006 on the said application itself endorsing the case to the Court of Dobashis for disposal. It is not known as to why and how, the said application addressed to the Deputy Commissioner, Mokokchung was put up before the Addl. Deputy Commissioner, Mokokchung. In the said application, it is stated about enclosing of a draft; but no draft is found in the record. It cannot be ascertained if the learned Addl. Deputy Commissioner, Mokokchung perused the said draft before making the endorsement on the side of the application on 9.5.2006. In fact, no case was filed formally either before the Deputy Commissioner, Mokokchung or Addl. Deputy Commissioner, Mokokchung. The case was filed before the Dobashis Court, Mokochung directly by the present respondent No. 1 and he put his signature on 10.5.2006 only.

7. As per report of the District Head Dobashis. Customary Law Court, Mokokchung, Nagaland addressed to this Court, the case was filed before the said Customary

Court on 11.5.2006. Nothing is mentioned in the said report about reference of the case to the Court of Dobashis by the Deputy Commissioner or the Addl. Deputy Commissioner, on the basis of the materials, one cannot reasonably conclude that the said Court of Dobashis, Mokokchung has been proceeding with a case referred to it by any of the competent authorities. In the absence of materials to show that the case which has been proceeding before the Court of Dobashis, Mokokchung is one referred to it by any of the competent authorities, it is concluded that the Court of Dobashis, Mokokchung has been proceeding with the case without jurisdiction.

8. In the result, this revision is allowed. The impugned letter bearing No. DB-2/05-06/659 dated 18.8.2006, copies of which are at Annexures-S and T of the revision petition, are hereby quashed. The Court of Dobashis, Mokokchung is not to proceed with the said case any further, inasmuch as, it has no jurisdiction to proceed with the case filed before it directly. In case, the present respondent No. 1 wants that his case be tried and disposed of by the Court of Dobashis, he is to file his case before the competent authority formally and he is to request the concerned authority for referring the case to the concerned Court of Dobashis. The concerned authority will have to apply his mind before passing any order either referring the case to the said Court or refusing to do so.

This revision petition stands disposed.