

**(1981) 08 GAU CK 0008**  
**In the Gauhati High Court**  
**Case No : Civil Rule No. 142 of 1979**

Fesoph Marak

APPELLANT

Vs

District Council and Others

RESPONDENT

**Date of Decision :** 12-08-1981

**Acts Referred:**

Mikir Hills District (Land and Revenue) Act, 1953 — Section 3

**Citation :** (1981) 1 GLR 297

**Hon'ble Judges :** T.C. Das, J;K.M. Lahiri, J

**Bench :** Division Bench

**Advocate :** S.N. Medhi and B.R. Dey, for the Appellant; A. Sarma, B.N. Sarma and B. Dutta, for the Respondent

**Final Decision :** Dismissed

## Judgement

K. Lahiri, J.—In this writ application the short point that falls for consideration is whether the Assam Board of Revenue can hear appeal from an order passed by the Assistant Revenue Officer, Karbi Anglong District Council. The answer must be in the negative in view of the provisions contained in Section 3 of the Mikir Hills District (Land and Revenue) Act, 1953 (Mikir Hills Act 1 of 1953), for short "the Act", as amended by Act III of 1960 passed by the Mikir Hills District Council. By amendment Act III of 1960, Section 3 was added to "the principal Act" which is extracted.

3. Notwithstanding anything contained in any provision of the Assam Land and Revenue Regulation, 1886 (Regulation 1 of 1886), appeals against the orders of the Revenue Officer shall lie to the Chief Executive Member, Mikir Hills District Council within sixty days of the date of orders appealed against excluding the time needed for obtaining a copy of the order.

(Emphasis added)

2. The impugned order dated 4.10.78 was passed by the Assistant Revenue Officer, Danka Circle, Karbi Anglong District Council. On perusal of the Impugned

order and scrutiny of Section 3 of "the Act" all hands agree that the appeal should have been preferred to the Chief Executive Member of the Mikir Hills District Council, We have no hesitation to hold that the learned Board of Revenue is justified in reaching the conclusion that it had no jurisdiction to entertain the appeal but not on the reasons set forth in the judgment. We reserve our opinion as to whether the findings of the Board of Revenue that it is incompetent to hear appeals against the order of the District Council, Karbi Anglong in Revenue matter, are correct or not. We express no opinion as to whether the Board of Revenue has jurisdiction to entertain appeal/revision arising out of revenue matters from Karbi Anglong as we are not called upon to answer the same. It will be decided in an appropriate case.

3. We hold the Petitioner could not skip over the statutory right of appeal prescribed in Section 3 of the Mikir Hills (Land and Revenue) Act, 1953 (as amended) and invoke the jurisdiction of the Board of Revenue. As such, we do not find any reason to interfere with the order passed by the Board of Revenue for reasons set forth above.

4. Mr. S.N. Medhi, the learned Counsel for the Petitioner submits that the Petitioner bonafide prosecuted his case before the Board of Revenue and in this Court and a direction may be issued condoning the delay of the period during which the Petitioner prosecuted the appeal before the Board of Revenue and the writ petition before this Court. It is true that the Petitioner bonafide prosecuted the appeal and the writ proceedings, however, it would be entirely for the Chief Executive Member, District Council to exercise "his direction"" to condone the delay, if there be any application to that effect, provided he is competent to condone the delay under any Jaw for the time being in force.

5. In view of the facts and circumstances of the case, status and standing of the Petitioner, the District Council might settle a parcel of land of equivalent area with the Petitioner, submits the learned Counsel for the Petitioner. We find that the prayer is reasonable. However, the competent authority can do the needful provided the Petitioner files an application, submits Mr. B.N. Sarma, Counsel for the District Council, The Petitioner is at liberty to file such an application for settlement to the appropriate authority, who shall undoubtedly consider the same on merit, more so when the Petitioner is a "tribal".

6. In the result, the petition is dismissed. There is no order as to costs.