
(2002) 06 GAU CK 0030
In the Gauhati High Court
Case No : CRP No. 3 (AP) of 2002

Ibom Kamum

APPELLANT

Vs

State of Arunachal Pradesh and Others

RESPONDENT

Date of Decision : 17-06-2002

Acts Referred:

Assam Frontier (Administration of Justice) Regulations, 1945 — Regulation 36, 37

Citation : (2005) GLT 115 Supp

Hon'ble Judges : Aftab H. Saikia, J

Bench : Single Bench

Advocate : R. Saikia, K. Ete and I. Basar, for the Appellant; R.H. Nabam and T. Partin, for the Respondent

Final Decision : Allowed

Judgement

A.H. Saikia, J.—Heard Mr. K. Etc, learned counsel appearing on behalf of the petitioner. Also heard Mr. R.H. Nabam, learned Addl. Senior Govt. Advocate, A.P. and also heard Mr. T. Partin, learned counsel appearing on behalf of private respondent No. 3.

2. This revision has been carried from the order dated 16.4.2002 rendered by the learned Judicial Magistrate, 2nd Class, Along deciding a civil matter having a valuation of more than Rupees One Lakh.

3. The only grievance of the revision petitioner is that the learned Judicial Magistrate, 2nd Class has no jurisdiction to try a civil suit which is valued at more than Rupees One Lakh and as such, the impugned order is liable to be set aside on this score itself due to lack of jurisdiction. This submission of Mr. Ete, learned counsel for the petitioner has also been approved by the learned counsel appearing for the private respondent, Mr. Partin who has also contended that law does not permit the learned Judicial Magistrate, 2nd Class to decide a civil matter having such valuation.

4. In order to appreciate the said submissions of the learned counsel for the

parties, it would be apt and expedient to refer the relevant provisions of law laid down in the Assam Frontier (Administration of Justice) Regulation, 1945 (for short "the Regulation").

5. Regulations 36 and 37 of the said Regulation may be quoted as follows :-

"36. Civil justice shall be administered by the Deputy Commissioner, the Assistant Commissioner and the village authorities. Administration.

37. The Deputy Commissioner may try suits of any value. The Assistant Commissioner may try suits not exceeding Rs. 1,000 in value," Powers of Deputy Commissioner and Assistant Commissioner.

6. On bare perusal of the said provisions, it appears that the Deputy Commissioner may try all the Civil suits of any value when the Assistant Commissioner may try suits only up to Rs. 1000 in value. That being the position, it can be safely held that the learned Judicial Magistrate 2nd Class has not been empowered to try a suit which is exceeding Rs. One Lakh in value. In the instant case, the valuation of the dispute is above Rs. One Lakh and the same seemingly falls within the jurisdiction of the Deputy Commissioner.

7.1 have perused the impugned order dated 16.4.2002 and also the materials available on record that has been placed before this Court by the learned State counsel. On meticulous scrutiny of the impugned order as well as the records, this Court finds that the respondent in this civil revision, preferred an appeal being civil Appeal No. 03/98, being aggrieved by the decision dated 7.5.1998 passed by the S.D.O, level Kabang wherein the petitioner was directed to pay a total amount of Rs. 1,30,000 (Rs. 1,00,000 was already paid) to the Respondent as sale money of "Genne" WRC Field before the Deputy Commissioner, Along. After having admitted the said appeal and before hearing of the same, the matter was suggested to be tried in Kebang at District Level. Accordingly, the matter was transferred to the District Kebang for hearing by the Deputy Commissioner Vide order dated 31.1.2002. Feeling aggrieved by the order dated 25.2.2002 (Annexure 2(a) to this petition) rendered by the District Kebang, the respondent in this Civil Revision again preferred an appeal before the Deputy Commissioner with a request to try the entire appeal pending before him. Accordingly, it is stated at Bar that the appeal being Civil Appeal No. 3/98 has been pending before the Deputy Commissioner against the decisions of the Kebangs, i.e., both S.D.O. level and District Level. It appears from the perusal of the records that when this appeal has been pending before the Deputy Commissioner for disposal the matter has been sent to be heard either by the C.O. (Kebang) or C.O.C. Judicial) and accordingly one K. Essi C.O. the present Judicial Magistrate, 2nd Class has been endorsed to hear the matter Vide Deputy Commissioner's order dated 18.3.2002. Accordingly, Mr. K. Essi, Judicial Magistrate, 2nd Class has heard the matter and passed this impugned order dated 16.4.2002.

8. After hearing the learned counsel for the parties and also having regard to the

relevant provisions of law as regards the trial of civil suits and also on perusal of materials available on records, I am of the considered view that the learned Judicial Magistrate, 2nd Class in the instant case has no pecuniary jurisdiction to try the civil suit in question and accordingly the impugned order rendered by him is set aside and quashed.

9. Since the Deputy Commissioner is the competent authority being authorised by law to hear the civil suit of any value and before whom the appeal regarding the present dispute has since been pending, it is directed that the Deputy Commissioner, West Siang District, Along shall dispose of the related appeal pending before him in accordance with law. As the matter relates to 1998, the learned Deputy Commissioner shall make an endeavour to dispose of this civil appeal expeditiously preferably within a period of three months from today. As this order has been passed in presence of the learned counsel for the parties, it is directed that all the parties concerned either in person or represented by their respective counsel shall appear before the Deputy Commissioner, West Siang District, Along on 8.7.2002 to obtain further orders.

10. For the foregoing reasons, observations and directions indicated above, this revision petition is allowed. No. costs.

11. Records so placed before me be returned to the learned State Counsel in order to enable him to send down the same to the concerned authorities forthwith.