
(1993) 05 GAU CK 0011
In the Gauhati High Court
Case No : Civil Revision No. 15 (H) of 1987

Longrichiba AO and Others

APPELLANT

Vs

Ungerchang Masomer and Others

RESPONDENT

Date of Decision : 18-05-1993

Acts Referred:

Citation : (1994) 2 GLR 96

Hon'ble Judges : W.A. Shishak, J

Bench : Single Bench

Advocate : P.K. Goswami, for the Appellant; E.Y. Renthungo, for the Respondent

Final Decision : Allowed

Judgement

W.A. Shishak, J.—This Revision Petition is directed against Order dated 12.11.87 passed by Additional Deputy Commissioner (Judicial) Mokokchung in Civil Appeal No. 2/86 setting aside the judgment and order passed by the District Dobashi Customary Law Court, Mokokchung on 21.2.86. The dispute is related to some plots of lands said to be house sites as well as some jungle lands near the house sites. After hearing the learned Counsel at great length and after going through the pleadings especially the evidences recorded from both sides I am of the view that I need not deal with the statement of each of the witnesses recorded by the court below. I would rather examine whether the matter had been actually decided finally by the village court which was said to have been affirmed by the D.B.s court by order dated 23.6.70 in case No. 33/70.

2. It is the main submission of the learned Counsel for the Petitioner that the case was first decided by the village court on 25.5.70. Thereafter the Respondent took the matter to the court of Dobashis at Mokokchung and that is how the court of D.B.s upheld the decision of the village court on 23.6.70 as stated above.

3. The second order of D.B.s passed on 21.2.86 appears to be more in the nature of execution rather than a decision rendered as a new case. On perusal of the said order dated 21.2.86 passed by the D.B.s. it appears that they went to the

spot for the purpose of ascertaining or verifying the disputed plots of lands.

4. It is not disputed that when the matter was decided by the village court on 25.5.70 the subject matter was house site. It would not be very material whether there were four or five plots because of the fact that the village authority which decided the case in 1970 exactly knew what the dispute was about and where the lands were actually located.

5. On perusal, it appears that the learned Additional Deputy Commissioner (Judicial) has not set aside the decision of village court rendered on 25.5.70. Consequently therefore the order aforesaid that is order dated 25.5.70 passed by the village court still stands. In this view of the matter the order passed by D.B.s court on 23.6.70 in case No. 33/70 which upheld the decision of the village court, also still stands. It is in this view of the matter that I do not wish to over-burden myself in going into the details of the statements recorded by the learned Additional Deputy Commissioner (Judicial) in the present case.

6. On perusal of the impugned order I have no doubt that the learned Additional deputy Commissioner (Judicial) took up the matter and tried it as a fresh case. This perhaps would have been permissible if the earlier order rendered in respect of the lame subject matter had been set aside. This the learned Additional Deputy Commissioner (Judicial) could have done only if he doubted justice in the decision thus rendered by the village court on 25.5.70 and also by the D.B.s court on 23.6.90.

7. Mr. E.Y. Renthungo appearing on behalf of the Respondents submits that the learned Additional Deputy Commissioner (Judicial) took up the entire matter and decided the case de nove. He supports his contention in this regard saying that both the parties had adduced evidences by examining five (5) witnesses on behalf of the Petitioners and ten (10) witnesses on behalf of the Respondents. The learned Additional Deputy Commissioner (Judicial), he submits, decided the case on the basis of statements recorded by him. It is therefore the submission of the learned Counsel for the Respondents that this tremendous effort put in by the learned Additional Deputy Commissioner (Judicial) should not be allowed to go in waste. According to the learned Counsel the decision rendered by the learned Additional Deputy Commissioner (Judicial) is a reasonable one and it must be upheld by this court. It is also contended on behalf of the Respondents that the question of resjudicata was never raised by the Petitioners and therefore this Court cannot accept the submission made in this regard on behalf of the Petitioners. As regards this submission I may state that since the existence of the decision made by the village court has not been disputed, it appears to me that it is for this Court to examine that order itself and come to its conclusion.

8. On careful perusal of the decision of the village court dated 25.5.70. I find that it is a very meticulously prepared Judgment. It is a speaking order. There is no ambiguity in the language used in the said order. The dispute was decided by persons belonging to the said village who had intimate knowledge of the location

of the village land. Not only that but also the members of the village court were familiar with the custom in deciding such a case.

9. P. W. 1. and D. W. 1 were Chairman and Secretary of the village respectively when the dispute was decided by the village court on 25.5.70. When they were examined by the learned Additional Deputy Commissioner (Judicial) Mokokchung, they stated clearly that they themselves set as members of the village court as Chairman and Secretary respectively. If that is so there should be no difficulty in identifying the actual disputed plots of lands even now.

10. As stated above since the decision of the village court has not been set aside by any superior court, it appears to me that the order passed on 25.5.70 by the village court has become final. If we allow the same issue to be raised again and again, there shall be no cad to litigation. In other words there must be an end to litigation. It must be remembered that public policy requires that the same question or issue should not be allowed to be raised again and again. This is to be remembered which is the basis of the doctrine of resjudicata and the doctrine of estoppel by Judgment.

11. In the light of my findings above this petition is allowed. The impugned order dated 12.11.87 passed by Additional Deputy Commissioner (Judicial) Mokokchung in Civil Appeal No. 2/86 is set aside. The decision of the village court dated 25.5.70 shall stand and it shall be enforced. If there is any controversy in regard to the actual location of the disputed plots, the learned Additional Deputy Commissioner (Judicial) should see to it that the plots are properly identified with the help of those witnesses who are alive. Such identification of land shall be done in the light of the village court decision dated 25.5.70. Keeping in view that all sections of the village community should live together peacefully and in harmony in the future. I make no order as to costs.

With the above observations and directions this petition is disposed of.