

GAHC040010362025

2025:GAU-AP:1326



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CRP/70/2025

Rippe Mayi Son of Late Mirik Mayi, permanent resident of Nyorak Rakte Village, PO and PS Aalo, West Siang District, Arunachal Pradesh.

VERSUS

1. Tumli Nyorak / Mayi and Anr
Son of Late Ritum Mayi, resident of Nyorak Village, PO and PS Aalo, West Siang District, Arunachal Pradesh. 791001
2. Shri Tumge Mayi S/o Late Rittum Mayi Resident of Nyorak village PO/PS : Aalo, West Siang District Arunachal Pradesh – 791001.

Advocate for the Petitioner : Marto Kato, Liya Keche, Tony Meto, Kamin Teri, Yasmin Gao, Mepe Ete, Nyali Sora

Advocate for the Respondent : Kemo Lollen, Arun Yun, Nyali Sora, Nyai Loyi, Geli Taye, D Ado

:::BEFORE:::

HON'BLE MR. JUSTICE BUDI HABUNG

Date on which judgment is reserved: 22.09.2025

Date of pronouncement of judgment: 26.11.2025

Whether the pronouncement is of the operative part of the judgment? YES

Whether the full judgment has been pronounced? YES

JUDGMENT & ORDER(CAV)

1. Heard Mr. Mepe Ete, learned counsel for the petitioner. Also heard Mr. Kemo Lollen, learned counsel for the respondents.

2. The petitioner has filed this application under Article 227 of the Constitution of India *read with* Section 115 of the Code of Civil Procedure, 1908, assailing the decision of the Inter-Village Territorial Customary Court(Bango-level Kebang), Ubo Bango Circle, allegedly decided on 09.06.2025, but, shown as 29.05.2025, in appeal against the order of the Customary Court(Kebang) dated 19.04.2025.

3. The material facts are not in dispute. On 28.05.2022, the father of the petitioner who is a grandfather of the respondent, made a declaration that whosoever takes care of him till his death, shall be entitled to his land known as "Kesa Rike".

4. The respondent, herein, being the son of the petitioner's deceased elder brother, claims to have looked after his grandfather (the father of the petitioner) till his death. The petitioner, opposing the declaration made by his father, lodged a complaint before the Head Gaon Burah(HGB) on 22.06.2022. The said complaint was allegedly not attended to by the Keba for decision during the life time of the father.

5. After the father's death on 03.03.2025, the petitioner filed a second complaint before the same Head Gaon Burah(HGB), seeking division of the father's properties among all brothers.

6. By order, dated 19.04.2025, the Customary Court(Kebang) divided the properties, whereby the disputed land "Kesa Rike" was allotted to the petitioner, contrary to the father's earlier wish to be inherited by a person, whosoever, takes care of him till his death.

7. Being aggrieved, the respondent preferred an appeal before the Inter-Village Territorial(Apex) Customary Court, i.e. the Head Gaon Burah(Bango

Secretary), Ubo Bango Circle. On 29.05.2025, the Keba delivered a split decision(7:7) and, being unable to reach a conclusion, the Keba issued a *Re-Parwana* fixing 09.06.2025 for further hearing and this time, increased the members of the Forum by appointing three additional HGBs in the bench.

8. The petitioner objected to the fresh *Parwana* and appointment of the additional forum members. The petitioner also indicated that he would not be attending the Re-Keba on the matter. Nevertheless, on 09.06.2025, the Bango Kebang decided the matter in the absence of the petitioner, but, noted the date of the decision retrospectively as 29.05.2025.

9. The petitioner alleges that only those members who had earlier supported the respondents, had participated in the said Re-Keba and signed the decision.

10. Mr. Ete, learned counsel for the petitioner, contended that the impugned decision was passed and signed back-dated with retrospective effect, contrary to law and custom. The learned counsel further contended that the participation of newly appointed HGB members who were not part of the earlier deliberations vitiates the proceedings as they did not even exist when the decision was made on 29.05.2025. Further, the procedure adopted by the Keba(Customary Court) violates the provisions of Section 44(1) of the Assam Frontier(Administration of Justice) Regulation, 1945, which provides for an ex-parte decision only after a party willfully remained absent for three consecutive occasions with 30-day intervals, after giving due opportunity of hearing. And, in the present case, the petitioner's representative was present on 29.05.2025, when the final hearing ended in a split decision; hence, the subsequent unilateral decision, dated 09.06.2025, bearing signatures dated on 29.05.2025, is illegal.

11. While praying for setting aside the impugned decision, Mr. Ete, learned

counsel for the petitioner, also seeks liberty to approach the competent Civil Court under the provisions of the Arunachal Pradesh Civil Courts Act, 2021 (amended from time to time) for setting aside the disputed Keba decision.

12. Mr. Lollen, learned counsel for the respondents, on the other hand, fairly submitted that the matter may be remanded to the Customary Court/ appropriate forum for fresh adjudication in accordance with law.

13. It is evident from the record that the Inter-Village Territorial Customary Court initially gave a split verdict(7:7) on 29.05.2025 and thereafter, the strength of the forum was enlarged by adding three more HGBs. Such enlargement of the forum after conclusion of hearing and retrospective dating of a later decision without further hearing, cannot be accepted, either, under the customary practices, or, the Assam Frontier(Administration of Justice) Regulation, 1945.

14. The impugned procedure adopted by the Keba/Customary Court amounts to a violation of natural justice. Passing a decision in the absence of one party, especially, when the previous proceeding had concluded with a split decision, renders the order unsustainable in law.

15. Upon hearing the learned counsels appearing for the parties and in view of the willingness expressed by both parties for a lawful reconsideration, the impugned decision deserves to be set aside and the matter remitted to the appropriate forum for adjudication of the matter, afresh, in accordance with law.

16. Accordingly, the present civil revision petition is hereby allowed.

17. In view thereof, the impugned decision of the Inter-Village Territorial

Customary Court (Bango-level Keba), Ubo Bango Circle, dated 09.06.2025, shown to have been decided on 29.05.2025, is set aside.

18. Consequently, either party shall be at liberty to approach the competent Civil Court under the Arunachal Pradesh Civil Courts Act, 2021(amended from time to time), for setting aside, or, fresh adjudication of the dispute relating to a plot of land i.e. "Kesa Rike"; or, in the alternative, either party may also approach the Inter Village Territorial Customary Court, or, the Apex customary Court as may be competent under the Assam Frontier (Administration of Justice) Regulation, 1945.

19. The competent forum, upon receiving such reference or appeal, shall issue notice to both parties; provide reasonable opportunity of hearing; record evidence if required; and deliver a reasoned order within a reasonable period of time.

20. It is made clear that this Court has not expressed any opinion on the merits of the rival claims of the parties. All issues concerning ownership and possession of the land 'Kesa Rike' are left open to be decided, afresh, in accordance with law and prevailing custom.

21. The instant civil revision petition, accordingly, stands disposed of in the above terms.

JUDGE

Comparing Assistant