



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

**Case No. : FAO/4/2019**

Tarh Akak Antoni  
S/o Late Tarak Takia, permanent resident of village Taraso, PO/PS Taraso, presently  
residing at Nirjuli, PO/PS Nirjuli, Dist. Papum Pare, AP

VERSUS

Tai Sakap  
S/o Tai Tach, village Lara, PO/PS Kimin, Dist. Papum Pare, AP

2:Biki Tapuk  
Age: 0  
Occupation :  
S/o Biki Taki village Durpa-I PO/PS Kimin Dist. Papum Pare AP

3:Tame Hache Tarh  
Age: 0  
Occupation :  
S/o Tame Tama Tarh village Kudh PO/PS Kimin Dist. Papum Pare AP

4:Bakey Nigma  
Age: 0  
Occupation :  
Vilalge durpa-I PO/PS Kimin Dist. Papum Pare AP

5:Biki tangum  
Age: 0  
Occupation :  
S/o biki Tada village Durpa-III PO/PS Kimin Dist. Papum Pare AP

6:Tadar Takey  
Age: 0  
Occupation :

S/o Tadar Tadek CREF colony village Durpa-III PO/PS Kimin Dist. Papum Pare AP

7:Taying sony

Age: 0

Occupation :

Village Kimin-I PO/PS Kimin Dist. Papum Pare AP

8:Tai Takio

Age: 0

Occupation :

S/o Tai epo village Dupra-I PO/PS Kimin Dist. Papum Pare AP

9:Ngurang Soli

Age: 0

Occupation :

Village Kimin-I PO/PS Kimin Dist. Papum Pare AP

10:Pagmar Obin

Age: 0

Occupation :

Model village PO/PS Kimin Dist. Papum Pare AP

11:Bamang Tame

Age: 0

Occupation :

Village Khod PO/PS Kimin Dist. Papum Pare AP

12:Tako Kapa Tah

Age: 0

Occupation :

S/o takio Tajamp PO/PS Kimin Dist. Papum Pare AP

13:Biki Taka

Age: 0

Occupation :

GREF Colony Village Durpa-III PO/PS Kimin Dist. Papum Pare AP

14:Gide Tagio

Age: 0

Occupation :

S/o Gida Tarang Village Durpa-I PO/PS Kimin Dist. Papum Pare AP

15:Gida Marak

Age: 0

Occupation :

S/o Gida Chapo Village Takar colony PO/PS Kimin Dist. Papum Pare AP

16:Kipa Takar

Age: 0

Occupation : S/o Kipa Tain village Bada PO/PS Kimin Dist. Papum Pare AP

17:Takio Taniang Tarh

Age: 0

Occupation :

S/o Takio Tagap Tarh village Durpa-I PO/PS Kimin Dist. Papum Pare AP

**Advocate for the Petitioner** : Taba Tagum

**Advocate for the Respondent** :

**BEFORE**  
**HONBLE MRS. JUSTICE MARLI VANKUNG**

**ORDER**

**Date : 31-07-2024**

Heard Mr. T. Tagum, learned counsel for the appellant, who has filed the instant First Appeal Order (FAO) against the order passed by the Deputy Commissioner dated 29.11.2019.

It is seen that this Court in its Order dated 31.01.2024 had made the following observation and order:

*“By order dated 30.11.2023 this court directed the Registry to ascertain the status with regard to the service of notice upon the respondent Nos.1 to 17. Accordingly, from the office note dated 25.01.2024 it is seen that notices on all the respondents i.e 1 to 17 are already served and A/D cards are already received back which is placed with the case record as per the order dated 07.03.2022.*

*In view of the above, the notices upon the respondent Nos. 1 to 17 are*

*deemed to be served. However, none appeared for the respondents are represented by any counsel.*

*Accordingly, the matter will be heard in the absence of the respondents."*

The matter was listed for admission hearing on 01.04.2024, 10.05.2024 and 15.05.2024, where the respondents remain unrepresented. None appeared for the respondents today and in view of the earlier order, this court find it appropriate to proceed with the case in the absence of the respondents.

The learned counsel for the appellant submits that the impugned order of the Deputy Commissioner dated 29.11.2019 is liable to be set aside, since the Deputy Commissioner in the impugned Order dated 29.11.2019 had mentioned that the application of the petitioners/appellant was made under Order 47 of the Assam Frontier (Administration of Justice) Regulation Act, 1945 and had dismissed the application on the grounds that the application/appeal was barred by Section 5 & Section 14(2) of the Limitation Act by stating that there was a delay of 252 days in filing the appeal against the impugned Mel Order No. KMN/JUD-07/2018 dated 02.11.2017, 22.11.2017, 24.11.2017, 11.06.2018 and the final settlement order dated 18.06.2018. The learned counsel submits that the appellant had approached the Deputy Commissioner not under Section 47 of the Assam Frontier (Administration of Justice) Regulation, 1945, but under Section 46 of the Assam Frontier (Administration of Justice) Regulation, 1945, since the value of the disputed three Mithuns would be approximately Rs. 3,00,000/-. The learned counsel submits that under Section 51 of the Assam Frontier (Administration of Justice) Regulation, 1945, the limitation period is 30 days in filing an appeal under section 47 of the Regulation, however, there is no limitation period prescribed in the Regulation for an appeal under section 46.

The learned counsel further submits that in the impugned Mel proceedings a Case Settlement Agreement was taken into consideration, however, the present appellant was never heard in these proceedings but the members Methun Farmer Club, who were not the owners of the disputed Mithuns were heard and considered in the Mel, which is a gross violation of the principles of natural justice.

For the above reason, the learned counsel submits and prayed for setting aside of the impugned order dated 29.11.2019 and for remanding the matter for fresh adjudication before the Court of the Civil Judge (Junior Division), Yupia, in terms of Arunachal Pradesh (Civil Courts) Act, 2021 and Arunachal Pradesh (Civil Court) Amendment Act, 2022.

Brief facts of the case is that the appellant was originally the owner of 3 (three) Mithuns and he had lend his female Mithun to his relative, Tadar Takiang at Kimin. Meanwhile, one of the female Mithun, belonging to the appellant, gave birth to two calves. Thereafter, the Mithun Farmer Club of Kimin intervened in the claim of ownership of the two calves and the female Mithun who had given birth to the calves. Several Mel meetings and hearings were conducted with the members of the club, regarding the ownership of the female Mithun and it's the two calves and finally came to a decision by passing the Case Settlement Agreement dated 18.06.2018. Aggrieved by the said decision, the appellant had approached the Deputy Commissioner under Section 46 of the Assam Frontier (Administration of Justice) Regulation Act, 1945, wherein the Deputy Commissioner passed the impugned order.

Having heard the submissions made by the learned counsel for the appellant, this Court has perused Section 46 & Section 47 of the Assam Frontier

(Administration of Justice) Regulation, 1945. It is seen that under Section 46, an appeal can be placed before the Assistant Commissioner, if the suit do not exceed Rs. 500/- in value and to the Deputy Commissioner, if the suit exceed Rs. 500/-, while Section 47 is a provision to file an appeal from the decision of the Assistant/Deputy Commissioner to the Deputy Commissioner. It is also seen that the value of the disputed Mithun is above Rs. 500/- and therefore, the instant appellant had approached the Deputy Commissioner under Section 46 of the Assam Frontier (Administrative of Justice) Regulation, 1945, against the Mel/Kebang decision where the settlement agreement dated 18.06.2018 was arrived at. On perusal of the order of the Deputy Commissioner dated 29.11.2019, this Court finds that the Deputy Commissioner had erred in noting that the instant appeal was filed under Section 47 of the Assam Frontier (Administrative of Justice) Regulation Act, 1945 and had thereby dismissed the case on the grounds of being barred by limitation period.

This Court has also perused the impugned Case Settlement Agreement dated 18.06.2018, where it is noted that the settlement is made between the Mithun Farmer Club of Kimin (1<sup>st</sup> Party) and Shri Taj Sakap, GB of Village: Lora-1, PO/PS- Kimin, Dist. Papum Pare, A.P ( 2<sup>nd</sup> Party), whereby, the Mithuns were to be handed over to Shri Taj Sakap. Thus, this court finds that the appellant, who claimed ownership of the Mithuns, was not made a party and therefore, prima facie, it appears that the present appellant was not heard in the matter, which, in that case, would be a violation of the principles of *Audi alteram partem*.

In view of the above findings, this court finds it fit to set aside the order of the Deputy Commissioner dated 29.11.2019. Further, on the enactment of the

Arunachal Pradesh (Civil Courts) Act, 2021 and the Amendment of the Act in 2022, this court find it appropriate to remand the matter back before the Court of Civil Judge (Junior Division), Yupia for fresh consideration.

The concerned parties are to approach the Court of Civil Judge (Junior Division), Yupia within 30 days from the date of receiving the certified copy of this order.

Meanwhile, interim order passed by this Court not to dispose of the Mithun, is to remain till the filing of the matter before the Court of Civil Judge (Junior Division), Yupia.

Accordingly, FAO No. 4/2019 stands allowed and disposed of as above.

**JUDGE**

**Comparing Assistant**