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THE GAUHATI HIGH COURT  
(HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA  
MIZORAM AND ARUNACHAL PRADESH)  
ITANAGAR PERMANENT BENCH  
NAHARLAGUN

Appeal from  
Writ Petition (Civil)

W.P. No. 1161 (AP) 2010

Kande Joint-Forest Management Committee  
-Versus-  
State of AP & 52 ors

Appellant  
Petitioner

Respondent  
Opposite Party

Counsel for the Appellant  
Petitioner

D. Kazi  
H. R. Obing

Counsel for the Respondent  
Opposite Party

Ct AP)  
Mr J. Hues ali } For R-37051253.  
" A. Manan }  
" Y.R. Singh }

Noting by Officer or Advocate	Serial No.	Date	Office, note, reports, orders or Proceeding with signature
(1)	(2)	(3)	(4)

IN THE MATTER OF:

1. ~~Kande Joint Forest Management~~  
~~Committee, Wakkro, Lohit District,~~  
~~Arunachal Pradesh represented by its~~  
Chairman Sri Soto Thalai, S/o Late  
Gonglum Thalai, resident of Wakro  
Village, P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
2. Shri Pelutso Thalai,  
S/o late W. Thalai,  
R/o Wakro Village,  
PO Wakkro, PS Chowkham,

District Lohit, Arunachal Pradesh.

3. Shri Basolum Yun,  
S/o late Tino Yun,  
R/o Wakkro Village,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.

4. Shri Laido Tayeng,  
S/o Sri K. Tayeng,  
R/o village Madai-II,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.

(Common Cause) ... Petitioners

- Versus -

1. The State of Arunachal Pradesh,  
represented by the Secretary (D.A.),  
Govt. of Arunachal Pradesh, Itanagar.
2. The Deputy Commissioner,  
Lohit District, Tezu,  
Arunachal Pradesh.
3. Shri Abramso Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
4. Shri Sokhreg Mam (GPM),  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
5. Shri Songelum Mam (Ex-ASM),  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
6. Shri Thaisa Mam (GB),

- R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
7. Shri Soprai Mam (GPM),  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
8. Shri Blongso Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
9. Shri Pekui Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
10. Shri Tinglaso Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
11. Shri Dongso Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
12. Shri Soyat Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
13. Shri Sowan Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
14. Shri Sowum Mam,

- R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
15. Shri Alongso Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
16. Shri Sochal Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
17. Shri Ponpon Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
18. Shri Sinemso Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
19. Shri Wokelum Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
20. Shri Rajesh Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
21. Shri Ronjitso Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
22. Shri Sotui Mam,

- R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
23. Shri Barapso Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
24. Shri Sondeolum Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
25. Shri Prositso Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
26. Shri Makhu Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
27. Shri Sondut Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
28. Shri Lokesh Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
29. Shri Bademso Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
30. Shri Sohiltum Mam,

- R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
31. Shri Dānglamso Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
32. Shri Jayai Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
33. Shri Defenso Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
34. Shri Soraplum Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
35. Shri Sowelum Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
36. Shri Manjilso Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
37. Shri Makheso Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
38. Shri Basum Mam,

- R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
39. Shri Solul Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
40. Shri Holeso Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
41. Shri Akyaso Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
42. Shri Khujilum Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
43. Shri Bayilum Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
44. Shri Anaiso Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
45. Shri Ajitso Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.
46. Shri Tanu Mam,



R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.

47. Shri Brojenso Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.

48. Shri Tityawso Mam,  
R/o village Old Pukhuri,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.

49. Shri Shavan Yun,  
R/o village Kanjang,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.

50. Shri Sokhai Yun,  
R/o village Kanjang,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.

51. Shri Sobral Yun,  
R/o village Kanjang,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.

~~52.~~ Shri Krangso Yun,  
R/o village Kanjang,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.

53. Shri Koranso Yun,  
R/o village Kanjang,  
P.O. Wakkro, P.S. Chowkham,  
District Lohit, Arunachal Pradesh.

....Respondents.

*Xi Deleted as per order  
dtd - 17-01-2011-*

F/R

**WP (C) 461(AP) 2010**

**:::BEFORE:::**

**HON'BLE (MR) JUSTICE A M BUJOR BARUA**

**24.01.2017**

None appears for the petitioners, when the matter was called upon.

Heard Mr. S. Tapin, learned senior Government Advocate appearing for the State respondent Nos. 1 & 2.

The case of the petitioners is that they belong to Thalai, Yun and Tayang clans of the Mishmi Tribes and they are the absolute owners of the land namely Kande area, which has been accepted by the Government as private community land of the people. The members of the aforesaid 3(three) clans formed a registered society in the name of Kande Joint Forest Management Committee under the Societies Registration (Extension to Arunachal Pradesh) Act, 1978 for early implementation of Government schemes in the area.

On 20.05.2010 and 24.05.2010, a complaint was lodged by 44(forty four) number of persons to the Circle Officer, Wakro, Lohit District, Tezu, Arunachal Pradesh, wherein it was stated that as per the Keba held on 27.08.2009 at P/Kund, a decision was taken that the Mam clan is also the co-owner of the Kande land with 10 % share. It is stated that certain project works have been undertaken at Upper Kande area and benefits of work had been shared only amongst the 03(three) clans namely Thalai, Yun and Tayang, without giving the benefits of work share to the other clans, namely the Mam clan.

Subsequently, another complaint dated 24.05.2010, was also submitted raising similar grievances. By the order dated 03.06.2010, the Deputy Commissioner, Lohit District, Tezu, upon hearing the arguments and counter-arguments of the aforesaid 04(four) clans, had constituted a Neutral Committee in order to identify the actual boundaries of the Kamuk, Taitong and Upper Kandey areas.

Accordingly, the aforesaid Neutral Committee after hearing all the parties, including the petitioners as well as the respondents Mam clan, had submitted its decision to the Deputy Commissioner, vide letter dated 03.06.2010. As per the said report of the Neutral Committee, it had been held that the magazine site area falls under Kamuk Taitong area and the same had been demarcated and the actual boundaries had been demarcated, and as per the Neutral Committee report the boundaries of the areas over which the respective clans have their rights have had been identified and demarcated. The said decision of the Neutral Committee was duly forwarded by the Circle Officer, Wakro to the Deputy Commissioner, Lohit District, Tezu, vide letter dated 12.07.2010.

Upon considering the report of the Neutral Committee, the Deputy Commissioner, Lohit district, Tezu had passed an order dated 03.08.2010. As per the said order dated 03.08.2010, one Mr. Soto Thailai, Chairman, Kande Joint Forest Management Committee had leased out certain land measuring 3 Ha at Kandey VFMC area Lai Nala to M/s Abir Infrastructure Private Limited, New Delhi, for construction of permanent Magazine Building of Demwe Lower Hydro Electric Project for a minimum lease period of 10(ten) years starting from 24.12.2009.

In the order of the Deputy Commissioner of 03.08.2010, it had been stated that certain members of the Mam clan had lodged a complaint to the Circle officer, Wakro on 20.05.2010, alleging that the contract works are not equally distributed among the 05(five) clans namely Thalai, Tayang, Doo, Mawai Yun & Mam clan. The order of the Deputy Commissioner of 03.08.2010, had upheld the report of the Neutral Committee and also after hearing the argument and counter-arguments of the respective clans and upon examining all the available evidences determined the ownership of the proposed Magazine Area.

The final observations/decisions of the Neutral Committee are as follows:

*"1. The Kanjang Yun clan, "Mepong clan and Mining were once settled at Kumuk – Taitong area prior to 1950 earthquake. During those days, Kumuk – Taitong and Kandey areas were cultivated by them. These areas and nearby nallas became their place of cultivation, hunting and fishing. Abundant bamboo plants and local pooja place which are still in existence proved their claims. Hence, Kanjang Yun, Mepong and Mining clans became the first settlers of Kumuk – Taitong and Kandey areas and some years after 1950 earthquake, those clans had migrated to present place of settlement.*

*Still those clans are considered as the actual owners of Kumuk – Taitong and Kandey areas as per the Customary Law.*

*2. Thalai, Tayang, Doo, Mawai Yun and Mam clans had migrated to Kandey area some years after 1950 earthquake from the Uphill side areas, like Langjong, Langmeh, Fungo, etc and after settling at Kandey for years, they came to their present settlement area. These clans are considered as the owners of Kandey area (Upper & Lower Kandey areas), Kanjang Yun, Mepong and Mining clans shall not claim over Kandey area unless the ownership of Kumuk – Taitong area in their favour is not honoured in future.*

*3. After verifying the whole area, the neutral Committee found that proposed Magazine Area is falling under Kumuk – Taitong area. Boundaries of Kumuk – Taitong area with Upper/Lower Kandey areas have also been demarcated by the Committee.*

*4. The Neutral Committee observed that the area under the coverage of the Village Forest Management Committee (VFMC), a reregistered society under the Chairmanship of Sri. Soto Thalal, is the community land owned by many*

***clans but no NOC was obtained from the real land owners before formation of VFMC Area."***

Accordingly, by the order dated 03.08.2010, the Deputy Commissioner upheld the decisions taken by the Neutral Committee as per the Customary Law for compliance of all parties and disposed of the matter.

Subsequently, the petitioners had filed a representation dated 24.08.2010, before the Deputy Commissioner, Lohit District, Tezu for revocation of the order dated 03.08.2010. The said representation of the petitioners was rejected by the impugned order of the Deputy Commissioner dated 18.11.2010. In the impugned order of rejection dated 18.11.2010, the Deputy Commissioner had stated that the Deputy Commissioner having pronounced the earlier order dated 03.08.2010, the same cannot be reviewed by the Deputy Commissioner in the same official capacity and accordingly, the application for revocation/review was rejected.

The said impugned order of rejection of revocation/review dated 18.11.2010 is under challenge in the present petition.

It is the submission of the petitioners in their writ petition that the said order of rejection of revocation/review dated 18.11.2010 of the Deputy Commissioner is arbitrary and without jurisdiction, and has been illegally exercised by the Deputy Commissioner and the Deputy Commissioner had declared the title of the land without any title suit being filed by any persons and without any registration of any suit for declaration of title and also without any trial of any suit. In other words, it is submitted that the impugned order dated 18.11.2010 of the Deputy Commissioner by which representation for revocation/review of the earlier order dated 03.08.2010 was rejected was passed without jurisdiction and secondly, the Deputy Commissioner, by the impugned order had decided the title of the

respective parties without their being a trial and registration of a title and title suit thereof.

From the perusal of the order dated 03.08.2010, of the Deputy Commissioner, whereby the recommendations of the duly constituted Neutral Committee was accepted, this Court is of the considered view that the said order is an original decision of the Deputy Commissioner, which had been passed upon the respective parties subjecting themselves to the jurisdiction of the Deputy Commissioner.

It is taken note that Regulation 36 of the Assam Frontier (Administration of Justice) Regulation, 1945 provides that any civil justice shall be administered by the Deputy Commissioner and the Deputy Commissioner may try any suits of any value. In view of such provision of Regulation 36 of the Assam Frontier (Administration of Justice) Regulation, 1945, the Deputy Commissioner under the law is exercising an original jurisdiction of to try a dispute between two groups of persons, both of whom are Indigenous people of Arunachal Pradesh. In the instant case, it is an admitted position that both the petitioners clans, namely Thalai, Yun and Tayang clans of the Mishmi Tribes and the respondents Mam clan are Indigenous peoples of Arunachal Pradesh and as such any dispute between them pertaining to the demarcation of their land can be tried and decided by the Deputy Commissioner under Regulation 36 of the Assam Frontier (Administration of Justice) Regulation, 1945.

Regulation 48 of the Assam Frontier (Administration of Justice) Regulation, 1945, *Inter alia* provides that an appeal shall lie to the High Court from an original decision of the Deputy Commissioner, if the value of the suit is not less than ₹500/- (presently increased to ₹50,000/-) or if the suit involves a question of trial of rights or customs, of the right to, or possession of, immovable property.

As already held the order dated 03.08.2010, being the original decision of the Deputy Commissioner, and the question of rights or

customs, of the right to, or possession of, immovable property, being involved in the said decision, an appeal would lie before the High Court, under Regulation 48 of the Assam Frontier (Administration of Justice) Regulation, 1945, against the original decision dated 03.08.2010.

On perusal of the Assam Frontier (Administration of Justice) Regulation, 1945, it is also noticed that the said regulation does not provide for any jurisdiction to the Deputy Commissioner to either review or revoke any original decision which had been passed by the Deputy Commissioner.

In such view of the matter, the impugned order dated 18.11.2010, of the Deputy Commissioner, rejecting the aforesaid 02(two) representations of the writ petitioners by stating that the Deputy Commissioner have no authority and jurisdiction to revoke/review the earlier order passed by him, does not call for any interference by this Court.

If the petitioners are aggrieved by any earlier order of the Deputy Commissioner dated 03.08.2010, an appropriate remedy for the petitioners would be to file an appeal under Regulation 48 of the Assam Frontier (Administration of Justice) Regulation, 1945.

In such view of the matter, this writ petition is found to be devoid of any merit and accordingly, the same is dismissed.

However, dismissal of the said petition may not be a bar for the petitioners to avail any appropriate remedy that may be available under the law.

In view of the above, this writ petition stands disposed of.

**JUDGE**

Cha Gang