

**IN THE GAUHATI HIGH COURT**

**(THE HIGH COURT OF ASSAM; NAGALAND; MIZORAM AND ARUNACHAL PRADESH)**

**ITANAGAR PERMANENT BENCH**

**(NAHARLAGUN)**

**FAO 08 (AP)/2012**

**1. Shri Nyamo Kamduk,**

S/o Shri Kinia Kamduk,

Resident of Pakam Village

P.O. & P.S. Aalo, West Siang District,

Arunachal Pradesh.

*.....petitioner*

**-Vs-**

**1. Shri Bali Loyi,**

S/o Lt. Mitba Loyi,

Resident of Pakam Village,

P.O. & P.S. Aalo, West Siang District,

Arunachal Pradesh.

**2. Shri Domo Loyi,**

S/o Lt. Mando Loyi,

Resident of Pakam Village,

P.O. & P.S. Aalo, West Siang District,

Arunachal Pradesh.

**3. Shri Hilem Loyi,**

S/o Lt. Horsi Loyi,

Resident of Pakam Village,

P.O. & P.S. Aalo, West Siang District,

Arunachal Pradesh.

*.....respondents*

By Advocates:

For the petitioners : Mr. M. Pertin, T. Leriak  
K. Debi, C. Gongo, O. Binggep  
T. Saroh, Y. Tapak, W. Sawin

For the respondent Nos. 1 & 2 : Mr. K. Jini, Mr. D. Kamduk,  
T. Gadi, D. Loyi, T. T. Tara

For the respondent No. 3 : Mr. D. Panging, N. Ratan,  
D. Padu, K. Tasso, G. Ngomdir, K. Loya,

**::BEFORE::**

**HON'BLE MR. JUSTICE A M BUJOR BARUA**

Date of Hearing & Judgment: 19.06.2018

**JUDGMENT & ORDER (ORAL)**

Heard Mr. M. Pertin, learned Senior counsel for the appellant and Mr. D. Kamduk, learned counsel for respondent Nos. 1 & 2 as well as Mr. D. Panging, learned counsel for respondent No. 3.

**2.** There is a land dispute between the appellant and respondent No. 3 which has a long history, but for the purpose of this appeal the entire background of the fact is not required to be narrated.

**3.** In course of the litigation the present appellant had preferred an appeal being FAO 05 (AP) 2009 under Section 48 of the AFR 1945 against the decision of the Deputy Commissioner, West Siang District, Aalo dated 15.06.2009. In the said appeal reference was also made to the judgment dated 24.03.2009 in WP (C) 243 (AP) 2007, wherein the Deputy Commissioner was directed to refer the dispute for an adjudication by the Keba.

4. Be that as it may, by the order of 22.02.2011 in FAO 05 (AP) 2009, a direction was issued to the appellant therein to file an appeal before the Deputy Commissioner, West Siang District within a period of 2 (two) months against the order dated 15.06.2009 of the Keba. As a consequence, the appellant had preferred an appeal under Section 46 of the AFR 1945 before the Deputy Commissioner, West Siang District.

5. The said appeal was given a final consideration by the order dated 30.03.2012. In the said order of 30.03.2012, the Deputy Commissioner had observed as follows:

*"It is also observed that after pronouncement of Judgment/Orders pronounced by the DC, the aggrieved parties always filed their appeal Petition before the Hon'ble High Court."*

Accordingly, the Deputy Commissioner finally decides as follows:

*"After having gone all the facts and circumstances and on perusal of the Case records in hand, I am satisfied to pass order that the Order passed by the Keba which was held at Pakam village Dere on 15.06.2009 under the supervision of Shri Jummar Bam, the then EAC (K) and under the Umpire ship of Shri Horba Loyi, HGB, Pakam village in connection with the Ropi Stream dispute case between the parties is hereby stands."*

6. It is taken note of that the Deputy Commissioner instead of deciding the appeal on its own merit, had merely stated that after having gone through the facts and circumstances and perusal of the case records, he is of the view that the decision of the Keba dated 15.06.2009 stands.

7. No reason has been given by the Deputy Commissioner as to why he comes to such a conclusion. As such the conduct on the part of the Deputy Commissioner who is said to be Mr. Amjad Tak, IAS is deprecated.

**8.** The law in this respect has been settled in the decision referred in ***Flanery Vs. Halifax Estate Agencies Ltd.*** reported in **(2000) 1 ALL ER 373** wherein it has been held that as follows:

*"The duty to give reasons "is function of due process and therefore of justice. Its rationale has two principle aspects. The first is that fairness surely requires that the parties – especially the losing party – should be left in no doubt why they have won or lost. – The second is that a requirement to give reasons concentrates the mind and if it is fulfilled the resulting decision is much more likely to be soundly based."*

The said judgment had also been followed by the Supreme Court in many other decisions.

**9.** Any order to be passed by the authorities either statutory or in exercise of administrative power must contain the reason for passing such order and in absence of any such reason being given, the order itself would be vitiated.

**10.** In view of the above, the order dated 30.03.2012 passed by the Deputy Commissioner, West Siang District is hereby set aside and the matter is remanded back to the Deputy Commissioner, West Siang District for a fresh adjudication as per law. In doing so, the Deputy Commissioner shall also give a personal hearing to both the parties and allow them to produce any relevant materials that they may desire to produce and also allow them to raise any contention for deciding the issue.

**11.** Mr. D. Kamduk, learned counsel for respondent Nos. 1 & 2 raises a concern that they are not involved in the land dispute between the appellant and the respondent No. 3 but are aggrieved as because of the dispute between the appellant and the respondent No. 3, the irrigation cannal, which is being used by them had been adversely affected. Accordingly, the respondent Nos. 1 & 2 are

also allowed to appear before the Deputy Commissioner, West Siang District by producing the relevant materials that they may desire to produce.

In terms of the above, the appeal stands disposed of.

**JUDGE**

*J. Bam*