



GAHC020004992020

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

Case No. : C. REVN 5/2020

1:KEVIZATHI SESA
S/O ZASETO SESA,
R/O WARD NO.11, CHUMUKEDIMA TOWN, DIMAPUR, NAGALAND

VERSUS

1:THE STATE OF NAGALAND AND 4 ORS
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF NAGALAND,
KOHIMA

2:THE COMMISSIONER
NAGALAND
KOHIMA

3:THE DEPUTY COMMISSIONER
DIMAPUR
NAGALAND

4:SEBASTIAN ZAMVU
R/O SOVIMA VILLAGE
DIMAPUR
NAGALAND

5:THE VILLAGE COUNCIL
SOVIMA
REPRESENTED BY ITS CHAIRMAN
SOVIMA VILLAGE COUNCIL
DIMAPUR
NAGALAN

Advocate for the Petitioner : LIMAWAPANG

Advocate for the Respondent : GOVT ADV NL



BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY

For the Petitioner : Mr. Limawapang, Advocate

For the State respondents : Mr. Kekhriengulie, learned Additional Advocate General
Mr. Meayanger Imchen, Sr. GA

For the Pvt. Respondents : Ms. Khrieketounuo Metha
Ms. Kekhrielleu Meshu, Advocates

Date of hearing : 21.03.2022, 24.03.2022
Date of Judgment & Order : 08.04.2022

JUDGMENT & ORDER (CAV)

Heard Mr. Limawapang, learned counsel for the petitioner. Also heard Mr. Kekhriengulie, learned Additional Advocate General for the State of Nagaland and Ms. Khrieketounuo Metha and Ms. Kekhrielleu Meshu, learned counsels for the private respondents.

2. This civil revision petition is filed challenging the impugned order dated 01.10.2020 passed by the learned Principal District and Sessions Judge, Kohima, Nagaland in IA No. 53, 54 and 55 of 2020 arising out of First Appeal No. 03 of 2020, whereby the learned Principal District and Sessions Judge, Kohima, Nagaland rejected the said First Appeal No. 03 of 2020 on the ground that the learned Principal District and Sessions Judge lacks jurisdiction to adjudicate the issues involved in the said first appeal.

3. Some disputes between the present petitioner and the respondent No. 4



arose out of a contract executed between them on 13.03.2017. Such disputes were taken to the Village Council, Sohima for adjudication by the respondent No. 4. The Village Council, Sohima heard the matter, and after deliberation and cross-examination of the parties, vide judgment dated 11.05.2019 directed the petitioner to pay the respondent No. 4 contract commission @ 8% of the actual work done, amounting to Rs. 48,82,320/- within a period of three months.

Being aggrieved by such judgment, the petitioner submitted a representation dated 25.02.2020 before the Village Council, Sohima seeking review of the decision dated 11.05.2019 on the ground that the said decision was faulty and legally erroneous.

On the basis of the aforesaid decision dated 11.05.2019, the Village Council, Sohima has in the meantime descended the private property of the petitioner and carried out measurement of the same. Accordingly, the petitioner requested the Village Council, Sohima to re-hear the parties and in the meantime to direct the respondent No. 4 not to interfere with the physical enjoyment and possession of the property of the petitioner.

Subsequently, a review meeting was held on 11.07.2020. In the said meeting, according to the petitioner, the Village Council, Sohima verbally re-affirmed its earlier decision. Thereafter, in terms of the said verbal decision the respondent Nos. 4 and 5 compelled the petitioner to indicate and demarcate a suitable property for the purpose of mortgaging the same in favour of the respondent No. 4. According to the present petitioner, a plot of land situated at Chimukadima Town, Dimapur belonging to the father of the petitioner was indicated by the petitioner.



4. Thereafter, the petitioner approached the Civil Judge, Senior Division, Dimapur, Nagaland by filing Civil Suit No. 7/2020 against the impugned decision dated 11.05.2019 and the verbal decision dated 11.07.2020 passed by the Village Council, Sohima. Subsequently, same was withdrawn with a liberty to file a fresh suit. Thereafter, the petitioner approached the Principal District and Sessions Judge, Dimapur, Nagaland under the provision of Section 96 and Order 41 Rule 1 of the Code of Civil Procedure, 1908 read with Rule 31 of the Rules of Administration of Justice and Police in Nagaland, 1937 assailing the judgment dated 11.05.2019 and verbal decision dated 11.07.2020 passed by the Village Council, Sohima.

5. The basic ground of the petitioner before the Principal District and Sessions Judge, Dimapur was that in view of the deletion of section 14 of the Village Council Act, 1978, the Village Councils are no more empowered to entertain and settle disputes or to administer justice. Thus, by the said appeal, the jurisdiction of the Sohima Village Council was challenged. Along with the said petition, the petitioner preferred IA Nos. 53, 54 and 55 of 2020 praying for condonation of delay, exemption from service of notice to the State respondent to institute the said suit and for suspension of the judgment impugned in the appeal, respectively.

6. Thereafter, the impugned decision was passed by the learned Principal District and Sessions Judge, Kohima, Nagaland holding that the Court has no jurisdiction to entertain the appeal since under Rule 31 of the Rules of Administration of Justice and Police in Nagaland, 1937, an appeal against the decision of the Mouzadar, Gaobura, Chief Headman of Khels, Dobashis or other village authorities lies before the Deputy Commissioner or his Assistants.



7. The basic ground of challenge in the present petition is that after separation of judiciary from the executive, the State of Nagaland has decided to place the Deputy Commissioner (Judicial), Additional Deputy Commissioner (Judicial), JMFC and JMSC under the administrative control of Gauhati High Court and by a notification dated 22.05.2008, the Deputy Commissioner (Judicial) and Additional Deputy Commissioner (Judicial) etc. had been re-designated as District and Sessions Judge/ Additional District and Sessions Judge etc. Accordingly, the learned counsel for the petitioner submits that in view of such position, the District and Sessions Judge, Nagaland has acquired the jurisdiction and is empowered to exercise its jurisdiction under Rule 31 of the Rules, 1937. Therefore, the decision of the learned Principal District and Sessions Judge, Kohima is erroneous and bad in law.

8. The learned counsel for the petitioner, in support of his contention relies upon a judgment and order (oral) dated 08.06.2017 passed by Coordinate Bench in Civil Revision No. 6(K)/2015 (Mr. P.Viyiho Awomi vs. Mrs. Xutoli Awomi).

9. The learned Additional Advocate General representing the State of Nagaland has also supported the contentions raised by the petitioner.

10. The respondent No. 4 by filing affidavit and by way of oral argument raised a preliminary issue contending that under Section 96 of the CPC, 1908 appeal can be entertained against original decree and the judgment passed by the Village Council cannot to be treated as a decree. The learned counsel for the respondent No. 4 submits that the judgment in P. Viyiho Awomi (supra) needs a



re-consideration as in the said judgment, the provision of CPC, 1908, more particularly implication of Section 96 and Order 41 was not considered.

11. For proper adjudication of the issue in hand, i.e. whether the Principal District and Sessions Judge is empowered and/ or conferred jurisdiction to entertain an appeal under Rule 31 of the Rules, 1937, the following background facts of separation of judiciary from executive in State of Nagaland is necessary.

(A). Certain areas of Northeast as well as areas under 6th Schedule of Constitution of India, administration of justice was entrusted to the Deputy Commissioners, their Assistants and other village functionaries. Such provision relating to the State of Nagaland is provided in the Rules of Administration of Justice and Police in Nagaland, 1937 (in short Rules, 1937).

(B). In British India, the law such as the Presidency Small Courts Act, 1882, the Provincial Small Cause Courts Act, 1887 and the Bengal Agra and Assam Civil Courts Act, 1887 were not enforced in the then Naga Hills. The Rules, 1937 continued in the Naga Hills by virtue of the Section 5 and 5A of the Schedule District Act, 1874. The Nagaland became a State with effect from 01.12.1963 by virtue of enactment of State of Nagaland Act, 1962. Article 371A was incorporated in the Constitution of India protecting, amongst others, the Customary Law of the Naga people. Procedure of such Customary Law is incorporated in the Rules, 1937.



(C). The Rule 1(a) of the Rules, 1937 defines Customary Court to mean and include Village Court, Sub-Ordinate District Customary Court and District Customary Court constituted under Chapter IVA of the Rules, 1937. These Village Courts, Sub-ordinate District Customary Courts and District Customary Courts were conferred with the jurisdiction to try suits and cases between parties who are schedule tribes or tribes. The powers and jurisdiction of such courts are also provided in the Rules.

(D). Chapter IV of the Rules, 1937 enumerates procedures of civil justice. As per Rule 23 of the Rules, 1937 the administration of civil justice is entrusted to the Deputy Commissioner, Additional Deputy Commissioner. Proviso to the said Rule empowers the State Government to invest any of its officers with the powers of Deputy Commissioner having judicial experience, and be designated as Deputy Commissioner (Judicial) and such officer can exercise all the powers of the Deputy Commissioner in its behalf. Rule 23 is quoted below for ready reference:

“[23] The Administration of Civil Justice in the State of Nagaland is entrusted to the Deputy Commissioner, Additional Deputy Commissioner Assistant to the Deputy Commissioner, Customary Courts constituted under Chapter IVA of the Rules, Dobasis and other village authority may be appointed by the State Government from time to time by Notification in the Official Gazette.

Provided that the Government of Nagaland shall be empowered to invest any officer of the State Government having judicial experience with the powers of the Deputy Commissioner for the trial of any particular civil case or cases and the Officer so invested with the powers of the Deputy Commissioner shall be designated as Deputy Commissioner (Judicial) and shall exercise all the powers of the Deputy Commissioner in the behalf.”

(E). The definition of Deputy Commissioner provided under Rule 1(b) of the Rules, 1937 also includes Officer designated as Deputy Commissioner (Judicial) and Additional Deputy Commissioner (Judicial), as and when



appointed under the Rules, 1937 to administer criminal and civil justice.

Rule 1(b) read as follows:

“[1] (b) "Deputy Commissioner" in these Rules, except where the contrary appears from the context, includes additional Deputy Commissioner, as and when appointed, and shall also include officers designated as Deputy Commissioner (Judicial) and Additional Deputy Commissioner (Judicial), as and when appointed to administer criminal and civil Justice under these Rules.”

(F). Rule 31 of the Rules, 1937 provides that appeal shall lie from the decision of the Mauzadar, Gaonburah, Chief Headman of Khels, Dobhasis or other duly recognized village authority to the Deputy Commissioner or his Assistant. The said Rule further provides that if necessary, the appellate court shall examine the parties. If, in the opinion of the appellate court the decision under challenge is just, it shall affirm the same and enforce it as one of its own. If the appellate court sees reason to doubt the justice of the decision, it will try the case de novo or refer it to a Panchayat. Rule 31 being the bone of contention in the present lis, the same is quoted below:

“31. An appeal shall lie from the decision of the mauzadar, gaonbura, chief, headman of khels, dobhasis or other duly recognized village authority to the tribal court whenever constituted or otherwise to the Deputy Commissioner or his Assistant. A record shall be made of the matter in dispute and the decision of the village authorities. If necessary, the Court shall examine the parties, and if the decision appears to be just, shall affirm and enforce it as one of its own. If the Court sees reason to doubt the justice of the decision, it will try the cases de novo, or refer it to a panchayat as above.”

(G). Therefore, it is apparent that the Rules, 1937 provides for jurisdiction and procedure of Customary Courts including procedure before the Appellate Authority.



12. In ***Subhashis Chakraborty vs. State of Meghalaya reported in (2002) 1 GLT 227***, the Full Bench of this Court, while dealing with the separation of judiciary from executive in some of the North Eastern States and areas under 6th Schedule of the Constitution of India, interpreted that Article 50 of the Constitution of India mandates for separation of judiciary from executive.

It was further held in *Subhashis Chakraborty (supra)* that administration of justice be entrusted to judicial officers under the High Court in accordance with provisions of Criminal Procedure Code and Civil Procedure Code. It was also observed that separation of judiciary from executive was necessary to preserve the Rule of Law and protection of liberty of citizens and that Rule of Law and independence of judiciary are the basic feature of the Constitution.

13. Subsequent to such decision, steps were taken for separation of judiciary, including establishment of courts and enactment of certain statute/ Rule for administration of justice. Service Rules for Judicial Officers were enacted. So far relating to the State of Nagaland, the Nagaland Judicial Service Rule, 2006 (in short Rules, 2006) was enacted in exercise of power conferred under proviso to Article 309 of the Constitution of India read with Article 234 of the Constitution of India, which came into effect on 14.12.2006.

Rule 5(a) of the Rules, 2006 provides that the persons who at the time of commencement of the Rules, 2006 are holding any post as may be specified/ notified by State Government shall be continued in consultation with the High Court and be under administrative control of the High Court. The said Rule further provides that the persons whose services were placed under the



administrative control of the High Court, as aforesaid, shall be considered as initial recruitment by way of absorption in the post mentioned in schedule A of the Rules, 2006.

14. Subsequent to this, in exercise of powers under Article 237 of the Constitution of India, the Governor of Nagaland was pleased to issue a notification dated 17.04.2008 directing that provision of Article 234, 235 and 236 of the Constitution of India shall apply to the judicial officers appointed as Deputy Commissioner (Judicial), Additional Deputy Commissioner (Judicial), Judicial Magistrate First Class and Judicial Magistrate Second Class. It was further ordered that said officers be placed under the administrative control of Gauhati High Court.

15. Thereafter, by notification dated 09.11.2009, altogether 24 Officers in the rank of Deputy Commissioner (Judicial), Additional Deputy Commissioner (Judicial), Judicial Magistrate First Class and Judicial Magistrate Second Class, on the recommendation of Gauhati High Court, were absorbed under Rule 5(a) of the Rule, 2006.

16. In the meantime, another notification dated 22.05.2008 was issued changing the nomenclature of Deputy Commissioner (Judicial) etc. and re-designated those to District and Sessions Judge etc. As the petitioner claims and also held by a Coordinate Bench in P. Viyiho Awomi (supra) that the appeal under Rule 31 of the Rules, 1937 shall lie to the District and Sessions Judge as the Deputy Commissioner (Judicial) has been re-designated as District and Sessions Judge. The said notification is quoted hereinbelow.



“ GOVERNMENT OF NAGALAND
DEPARTMENT OF JUSTICE AND LAW
NAGALAND:: KOHIMA
NOTIFICATION

Dated Kohima, the 22nd May, 08

No. LAW/ACT-13/97:: In exercise of the powers conferred by Article 309 of the Constitution of India, read with Clause 3 of Schedule A of the Nagaland Judicial Service Rules, 2006, The Governor of Nagaland is pleased to change the nomenclature and re-designate the following existing Judicial posts in the State.

Existing nomenclature

Changed nomenclature

1.D.C. (Judicial)

District & Sessions Judge

2.A.D.C (Judicial)

Addl. District & Sessions Judge

3.Judicial Magistrate First Class

Chief Judicial Magistrate

4. Judicial Magistrate Second Class

Civil Judge (Junior) & to conduct

Both Civil & Criminal Cases.

Sd/- Lalhuma

Chief Secretary to the Govt. of Nagaland

Dt. Kohima, the 22nd May, 08”

17. The schedule A of the Nagaland Judicial Service Rule, 2006 nowhere reflects any post namely DC (Judicial) and ADC (Judicial). The said Rule was amended by first amendment Rule, 2009. The amendment Rule also nowhere provides any nomenclature or designation by the name “DC (Judicial) and ADC (Judicial)”. The learned counsel for the petitioner as well as the learned Additional Advocate General have also submitted that they are not aware of



incorporation such officers i.e. DC (Judicial) and ADC (Judicial) which were required to be re-designated. Schedule A of the Nagaland Judicial Service Rule, 2006 is quoted herein below:

“

SCHEDULE-A

There shall be three Grades of services, namely:-

- (a) Grade-I
- (b) Grade-II
- (C) Grade-III

GRADE-I

Sl No.	Name & post	No. of the posts	Scale of pay	remarks
1	District & Sessions Judge		As may be fixed by the State Government	
2	Additional District & Sessions Judge		As per provisions of the Nagaland Service ROP Rules, 1993.	
3	Registrar, Gauhati High Court			
	Special Judge, (Prevention of Corruption Act, 1947)			
4				



GRADE-II

Sl No.	Name & post	No. of the posts	Scale of pay	remarks
1	Chief Judicial Magistrate		As may be fixed by the State Government	
2	Principal Civil Judge			
3	Senior Civil Judge			
4	Civil Judge			
5	Deputy Registrar, Gauhati High Court			

GRADE-III

Sl No.	Name & post	No. of the posts	Scale of pay	remarks
1	Sub-Divisional Judicial Magistrate		As may be fixed by the State Government	
2	Judicial Magistrate		Do	
3	Senior Munsiff		Do	
4	Upper Munsiff		Do	
5	Munsiff		Do	
6	Asst. Registrar		Do	



7	Special Judicial Magistrate			

18. From the perusal of Nagaland Judicial Service Rule, 2006, the notification dated 17.04.2018, issued in the name of the Governor of Nagaland and in exercise of power conferred by Article 237 of the Constitution of India directing application of Article 233, 234, 235 and 236 of the Constitution of India to the Judicial Officers appointed as Deputy Commissioner (Judicial), Additional Deputy Commissioner (Judicial) etc. clarifies that the said officers were brought under the administrative control of the Gauhati High Court. These officers are the officers who were looking after the judicial proceeding under the Rules, 1937. The separation of judiciary from executive necessitated bringing them under the administrative control of Gauhati High Court. Such position is further clarified by way of the notification dated 09.11.2009 issued in the name of the Governor of the Nagaland absorbing 24 such judicial officers and bringing them under the Nagaland Judicial Service Rule, 2006. Since it was a transformatory situation, the provision for such absorption was made in Rule 5(a) of the Nagaland Judicial Service Rule, 2006.

19. It is well established that if any statute confers jurisdiction upon a court or authority to decide any dispute, such jurisdiction is to be exercised by the said authority and within its limit as conferred by the said statute. In **Arun kumar & Ors Vs Union of India & Ors, reported in (2007) 1 SCC 732**, the Hon'ble Supreme Court held as follows:

“74. A "jurisdictional fact" is a fact which must exist before a Court, Tribunal or an Authority assumes jurisdiction over a particular matter. A



jurisdictional fact is one on existence or non-existence of which depends jurisdiction of a court, a tribunal or an authority. It is the fact upon which an administrative agency's power to act depends. If the jurisdictional fact does not exist, the court, authority or officer cannot act. If a Court or authority wrongly assumes the existence of such fact, the order can be questioned by a writ of certiorari. The underlying principle is that by erroneously assuming existence of such jurisdictional fact, no authority can confer upon itself jurisdiction which it otherwise does not possess."

20. Appellate jurisdiction is conferment of an authority upon the court to adjudicate cases that are already heard and decided by subordinate court to it.

21. The Customary Courts as provided under the Rules 1937 cannot be treated as Sub-ordinate court to the court of District and Sessions Judge inasmuch as neither CPC, 1908 nor the Civil Courts Act, 1887 or the Rules, 1937 declare the Customary Courts to be Sub-ordinate Court to the Courts of District and Sessions Judge.

22. Rule 31 of the Rules, 1937 confers appellate jurisdiction upon the Deputy Commissioner, which includes a Deputy Commissioner (Judicial). The Deputy Commissioner (Judicial) is appointed to administer criminal and civil justice under the Rules of 1937 as discernable from the Rule 1(b) of the Rules, 1937. The Rules, 1937 has not been amended till date by changing the nomenclature of Deputy Commissioner (Judicial) / Additional Deputy Commissioner (Judicial) to that of District and Sessions Judge and Additional District and Sessions Judge respectively, nor any amendment has been made in the CPC, 1908 or in the Civil Courts Act, 1887 conferring appellate jurisdiction under Rule 31 of the Rules,



1937 upon the District and Sessions Judges.

23. Thus, in the considered opinion of this court, the District and Sessions Judge has not been conferred with the necessary jurisdiction required to take the appeal in question filed under Section 96 of the CPC read with Rule 31 of the Rules, 1937. Therefore, the District and Sessions Judge is not having any power and jurisdiction to adjudicate an appeal from the decision of Customary Court in exercise of power, either under Section 96 of the CPC, 1908 or under Order 41 or under Rule 31 of the Rules, 1937.

24. It is clear that no special enactment has been made conferring any jurisdiction upon the District & Sessions Judges to exercise power under Rule 31 of the Rules, 1937. A conjoint reading of the notification dated 17.04.2008, 22.05.2008 and 09.11.2009 reveals that for the purpose of protecting the services of existing Deputy Commissioner (Judicial) and Additional Deputy Commissioner (Judicial) etc., the said notifications were issued inasmuch as they were brought under the administrative control of Gauhati High Court. Therefore, the considered opinion of this court is that such absorption and change of nomenclature shall not automatically vest jurisdiction of appellate authority upon all the District & Sessions Judges in the State of Nagaland with the power and jurisdiction of appellate authority under Rule 31 of the Rules, 1937 or under Section 96, CPC, 1908 or under Order 41.

25. This court in the case of **Registrar General, Gauhati High Court Vs. Union of India reported in (2013) 4 GLT 1109** while dealing with the issue of separation of judiciary from the executive in some of the North Eastern State came to certain finding and issued certain directions.



26. The ratio of the said decision in Registrar General (supra) can be summarized for the purpose of present determination as follows:

(I). By virtue of decision in ***Keshabananda Bharti vs. State of Kerala reported in AIR (1973) SC 1461*** as well as held by the Full Bench in ***Subhashish Chakraborty reported in (2002) 1 GLT 227***, the separation of judiciary under Article 50 of the Constitution of India has acquired the force of law.

(II). Though under Article 371 A of the Constitution of India, no Act of the Parliament is to apply to administration of civil and criminal justice involving decisions taken according to Naga Customary Law, there is no conflict in applying CPC and Cr.P.C. in respect of matters to be tried by regular courts meant by Members of Judicial Service.

(III). On courts being set up and being governed by Civil Courts Act, the bar against applicability of CPC, Cr.P.C. in tribal areas cannot be read to refer to regular courts but only to other Customary Courts.

(IV). The Bengal Agra & Assam Civil Court Act, 1887 is applicable to the State of Nagaland.

(V). The Administration of Justice Rule applicable in Nagaland will give way to the provision of Civil Court Act, 1887 to the extent of inconsistency in relation to functioning of Courts meant by Members of Cadre of Judicial



Service.

(VI). CPC and Cr.P.C. are applicable to the regularly constituted civil and criminal courts without affecting the functioning of Village and any other Customary Courts.

27. Thus it is apparent that two parallel courts are functioning and are permitted in the State of Nagaland, one the Customary Courts manned by Executives and other village authorities having jurisdiction as provided under the provision of Rules, 1937, by following the procedure laid down in the said Rules, 1937. The other courts are General Courts created by virtue of Civil Courts Act, 1887, Cr.P.C. and CPC and manned by the Members of the Judicial Service under Nagaland Judicial Service Act, 2006.

28. The procedure followed for conduct of business and jurisdictions of General Courts are as mandated in the CPC and Cr.P.C and for Customary Court it is the Rules, 1937. Therefore, in absence of any enactment conferring jurisdiction upon the General Court to act as an appellate authority against decision of Customary Court, the General Court cannot assume jurisdiction by virtue of the notification dated 22.08.2008.

29. In view of the aforesaid discussions and reasons, this court is of the considered opinion that the Principal District and Sessions Judge, Dimapur has rightly passed the impugned order by not entertaining the appeal preferred by the petitioner herein.



30. However, as stated hereinabove, in a similar situation, a contrary view was expressed by a Coordinate Bench in its judgment and order (oral) dated 08.06.2017 passed in Civil Revision No. 6(K)/ 2015. The learned counsel for the petitioner has also relied on this decision to buttress his argument. The ratio laid down in the aforesaid judgment is reflected at para 7, which is quoted herein below:

“7. From the contents of Rule 24 and 31 of Rules for Administration of Justice and Police in Nagaland (3rd Amendment) Act, 1984 given above there is no doubt that Village Councils do still enjoy certain powers to adjudicate civil disputes particularly in matters relating to customary laws, and their decisions are appealable before the Deputy Commissioner or his Assistant.

Further, reading together of the minutes of the meeting held at the residence of the Hon’ble Chief Justice of this High Court and the notification issued by the Department of Justice and Law, Nagaland it appears that decision for total separation of judiciary from Executive in phase manner has been taken and implementation of the same has been started with the district of Dimapur. In view of this change that has taken place, the power of Deputy Commissioner under Rule 31 of Rules for Administration of Justice and Police in Nagaland, 1937 has to be understood as transferred to the District Judge specially in respect of the district of Dimapur. Therefore, the learned District Judge, Dimapur should have admitted the appeal and decided the same on merit. The judgment of this High Court rendered in the case of Registrar General Gauhati High Court vs. Union of India and Others in WP (C) 5873 of 2006 reported in 2013 (4) GLT 1109, does not in any way block the jurisdiction of the Court of District Judge, Dimapur in adjudicating such cases.

In view of what has been stated above, the impugned judgment and order of the learned District Judge dated 23.04.2015, passed in First Appeal No. 23/2013, is quashed and set aside. Accordingly, the District Judge, Dimapur shall admit the appeal and dispose the same on merit.”



With this, the Civil Revision Petition is disposed.”

31. In view of the reasons discussed herein above, I respectfully disagree with the view expressed and decision taken by a Coordinate Bench in the judgment of Mr. P Viyiho Awomi (supra) and therefore, judicial discipline and propriety demands that the matter be placed before the Hon’ble Chief Justice for referring the issue to a larger Bench.

32. Accordingly, the Registry is directed to place the matter before the Hon’ble Chief Justice for his Lordship’s further consideration.

JUDGE

Comparing Assistant