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TELEN KOM

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**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) NO.725 of 2010

Mr. Shri Lungkhothang Singson, aged about 70 years, s/o Late Siakpu Singson, Chief of Lungthulien Village, Tipaimukh Sub-Division, P.O. & P.S. Tipaimukh District Churachandpur, Manipur.

..... *Petitioner*

– Versus –

1. The State of Manipur represented by the Chief Secretary, Government of Manipur.
2. The Deputy Commissioner, Churachandpur District, Manipur.
3. Mr. Paukhomawi, S/o Late Paulienmang Singson, Chief of Senvon Hill village, P.O. & P.S. Parbung, Tipaimukh Sub-Division, District Churachandpur, Manipur.

.... *Respondents*

BEFORE

HON'BLE MR. JUSTICE M.V. MURALIDARAN

For the Petitioner/s : Mr.N. Surendrajit, Advt.

For the Respondent/s : Mr. Phungyo Zingkhei, Advt.
Mr.S. Nepolean, GA.

Date of reserved : 29.04.2021

Date of Judgment & Order : 17.06.2021

JUDGMENT & ORDER
(CAV)

[1] The writ petition was originally filed by the petitioner Lungkhothang Singson seeking to quash the order dated 30.6.2010 passed by the Deputy Commissioner, Churachanpur in Hill Revision Case No. 2 of 2010 alleging that his father was the recorded Chief of Lungthulien Village and while he was unable to function as Chief of the Village, the father of the petitioner allowed the petitioner to function as the chief of the village under an authorization letter dated 27.2.1989. Since the date of expiry of the father of the petitioner on 05.03.1989, the petitioner being the eldest son, he has been functioning as the Chief of Lungthulien village without any interruption and his name has also been recorded as the Chief of the village by the Sub Divisional Officer vide order dated 11.02.2010. However, the third respondent, who is the resident of Renkai village and the grandson of former Chief of Senvon village filed a petition before the Deputy Commissioner, Churachandpur challenging the order of recording the name of the petitioner as Chief of the Lungthulien village and obtained an order of stay on 30.6.2010, thereby staying the operation of the order dated 11.02.2010 passed by the Sub Divisional Officer, Tipaimukh. Challenging the said order dated 30.06.2010, the petitioner Lungkhothnag Singson filed the writ petition.

[2] Pending writ petition, Lungkhuthang Singson died and kamminlun Singson was added as the second petitioner. According to the second petitioner, he inherited the Chiefship of Lungthulien village from his grandfather late Lungkhothang Singson through his father Sehkhohal Singson. It is stated that since the father of the second petitioner has been incapable of being the Chief of the said Lungthulien village due to his ill-health and by customary law, the right and title of Chiefship was inherited in the family through the male lineage. Accordingly, the right and title of the Chiefship of Lungthulien village has been transferred by Sehkhohal Singson to the second petitioner by way of deed of transfer of Chiefship on 03.10.2016 and accordingly, the second petitioner is proceeding with the writ petition.

[3] The power of attorney holder of the third respondent filed affidavit-in-opposition on 31.5.2013 stating that the real dispute between the original petitioner and the third respondent is in respect of the land and title thereto and other rights pertaining to the office of Chiefship etc. The original petitioner ought to have gone to the Civil Court for establishing his right and title. It is stated that the Senvon Hill village is Kuki Tribal village established in or about 1906 with Kamkholun as the Founder Chief. Though the village has its hamlet/machets such as Lungthulien, Rovokot, Tipaimukh, Sipuikom and Sitam having separate village authority each, there is no system of having separate Chief of such sub-

villages comprised therein. All these villages are under the high Administrative control and supervision of the Chief of the Senvon village in the administration and management of these villages according to the Kuki custom and usage.

[4] It is stated that on the death of Kamkholun, Chief of Senvon village, his eldest son Chekang succeeded him to the office of Chief and after his death, his eldest son, Lungkhopao and on the death of his eldest son paulienmang being the heir-successor by custom became the Chief of Senvon village and at present, the third respondent, eldest son of the said paulienmang is the Chief of Senvon village vide order date 30.7.2010 passed by the Deputy Commissioner, Churachandpur and his name was recorded in the relevant Touzi Book by the Sub Divisional Officer, Tipaimukh.

[5] According to the third respondent, when the said Lungkhopao had been discharging and carrying out the function and duties of the Chief of Senvon village, the biggest Kuki village ever established and he allowed and permitted the said Seiphu Singson, second son of the said Kamkholun, the great-great grandfather of the third respondent to assist him in the administration and management of the village relating to the collection and payment of hill house tax to the Government. Taking advantage of the situation, the said Seiphu Singson somehow managed to get his name recorded in the relevant Touzi book as the Chief of Lungthulien village and wrongly shown at serial No. 10 in the list

of the village in Southern Circle West Sub Division, Thanglon tamenglong Circle No. 3 in collusion with the local authorities of that circle while the Senvon village is shown at Serial No. 24, without the knowledge and behind the back of the Chief of Senvon village.

[6] It is also stated that said Seiphu Singson along with his family members, including the original petitioner, left Lungthulien village and shifted to a village called Bethel, situated within the sub-division Churachandpur during the ethnic clashes between Kuki and Hmar that took place in 1960. They have abandoned their rights and titles to the land and settle therein permanently and Seiphu died in 1989 and with the passage of time the original petitioner Lungkhothang Singson became the Chief of Bethel village and he is still discharging the duties and functions as such Chief thereof.

[7] According to the third respondent, Lungthulien village being a sub-village of the main Senvon village ceased to exist since 1960 in the manner as stated above and where after, the third respondent before him his predecessor-in-interest have taken absolute control of the said sub-village and since then they have been in exclusive physical possession and enjoyment thereof by doing cultivation in arable areas, maintaining and preserving forest and extracting forest produce therefrom and by permitting his villagers to construct residential houses thereon till date, adversely to the knowledge of the said Seiphu and the

original petitioner. In fact, the original petitioner is no longer the resident of Lungthulien village.

[8] In the affidavit, the third respondent denied that the original petitioner became the Chief of Lungthulien village on the death of his father and on his application for recording his name as a Chief of that village, the SDO, Tipaimukh granted the order dated 11.2.2010 without giving notice and behind the back of the Chief of Senvon village. Since the second respondent alone is the competent authority to recognize or de-recognise Chiefship in Hill villages, the said order of SDO dated 11.02.2010 is null and void and being one passed without any legislative competence and jurisdiction. Accordingly, the third respondent filed an application before the Deputy Commissioner for setting aside the order passed by the SDO. The Deputy Commissioner, by the impugned order of the SDO, Tipaimukh in Hill Revision Case No. 2 of 2010.

[9] After impleading the second petitioner, the second petitioner has filed a rejoinder affidavit to the affidavit filed by the third respondent stating that the third respondent is a stranger to Lungthulien village and has no right or interest whatsoever in the Chiefship of the village. Furthermore, when it is undisputed that none of the petitioner's siblings have raised any objections, the third respondent has no authority at all to raise the issue that the second petitioner being the youngest son has no right to Chiefship of the village.

[10] The third respondent filed reply affidavit stating that the second petitioner never inherited the Chiefship of Lungthulien village from his grandfather late Lungkhothang Singson. It is recognized and recorded that the third respondent as the Chief of Senvon and Lungthulien village is one of the machet villages of senvon and there is no any Chief other than the third respondent. It is stated that as per the Kuki customary law, the Chiefship is inherited by the natural son from his natural father and Sheikholal father of the second petitioner has inherited the Chiefship of Bethel village from Lungkhothang Singson, who was the original writ petitioner. The question of the second petitioner claiming to be the Chief of Lungthulien village has no substance and therefore, the writ petition is liable to be dismissed.

[11] Assailing the impugned order dated 30.6.2010 staying the order of the Sub Divisional Officer, Tipaimukh whereby transferring the Chiefship of Lungthulien village in favour of the original petitioner Lungkhothang Singson, the learned counsel for the second petitioner contended that the second petitioner inherited the Chiefship of Lungthulien village from his grandfather late Lungkhothang Singson through his father Shekholal Singh and since the father of the second petitioner incapable of being the Chief of Lungthulien village due to his ill-health and by customary law, the right and title of Chiefship was inherited in the family through the male lineage. Accordingly, the right and title of the

Chiefship of Lungthulien village has been transferred by sehkhola Singson to the second petitioner by way of deed of transfer of Chiefship dated 03.10.2016.

[12] The learned counsel further submitted that the third respondent is a stranger to the Lungthulien village and he has no right or interest whatsoever in the Chiefship of Lungthulien village and that the third respondent obtained the impugned order of stay behind the back of the grandfather of the second petitioner and therefore, the impugned order is not sustainable in the eye of law and the same is liable to be set aside and that the right and title of the Chiefship of second petitioner in respect of Lungthulien village has to be confirmed.

[13] Per contra, the learned counsel for the third respondent submitted that the second petitioner never inherited the Chiefship of Lungthulien village from his grandfather and that it is recognized and recorded that the third respondent as the Chief of Senvon village by the competent authorities and Lungthulien village is one of the machet villages of Senvon and that there is no any Chief except the third respondent. He would submit that in fact, the father of the second petitioner namely Sheikhola Singson, son of Lungkhothang Singson is the Chief of Bethel village and as per the Kuki customary law, the Chiefship is inherited by the natural son from his natural father and that the father of the second petitioner has inherited the Chiefship of Bethel village from

Lungkhothang Singson, who was the original writ petitioner and not Lungthulien village.

[14] The learned counsel for the third respondent further submitted that both the father and son cannot be a Chief at the same period of time and that the question of the second petitioner claiming to be the Chief of Lungthulien village has no basis at all.

[15] Heard the learned counsel for the respondent State also.

[16] This Court considered the submissions made by the learned counsel for parties and also perused the materials available on record.

[17] The writ petition was originally filed by Lungkhothang singson challenging the order dated 30.6.2010, thereby staying the transfer of Chiefship of Lungthulien village in favour of Lungkhothang Singson dated 11.2.2010 of the SDO, Tipaimukh.

[18] It appears that by the order dated 11.2.2010, the SDO, Tipaimukh ordered transfer of Chiefship of Lungthulien village in favour of the original writ petitioner Lungkhothang Singson. Aggrieved by such transfer, the third respondent herein filed Hill Revenue Case No. 2 of 2010 before the Deputy Commissioner, Churachandpur. By the order dated 30.6.2010 impugned in the writ petition, the Deputy Commissioner, Churachandpur stayed the order dated 11.2.2010 of the SDO, Tipaimukh. Admittedly, the said order of stay has been

passed by the Deputy Commissioner, Churachandpur without notice to the original writ petitioner Lungkhothang Singson. When the order transferring the Chiefship of Lungthulien village was issued in favour of the original writ petitioner, he should be heard before staying the said order.

[19] According to the third respondent, there are as may as five various villages such as Lungthulien, Tipaimukh, Sitam, Sepuikon and Robokot lying and comprised in Senvon village of which the third respondent is the Chief. All the above five villages are under the high administrative control, supervision of the Chief of Senvon village.

[20] Since the third respondent claims that Lungthulien village is one of the machet village of Senvon and the third respondent is the Chief of Senvon village and also there is no Chief of Lungthulien village, the said disputed question of fact, cannot be decided in this writ petition. That apart, the second petitioner now claims that the impugned order stay transferring the Chiefship of Lungthulien village has been passed without hearing the original petitioner, who is the grandfather of the second petitioner. When the second petitioner claims that he is the Chiefship of Lungthulien village and the third respondent is a stranger to Lungthulien village, it would be appropriate to remit the matter to the SDO concerned to decide the factual aspects of the matter in detail upon hearing the parties afresh. As stated supra, while staying the order dated 11.02.2010 of

the SDO, Tipaimukh, the Deputy Commissioner, Churachandpur has not heard the original writ petitioner and his families. It is also the say of the third respondent that the second petitioner never inherited the Chiefship of Lungthulien village from his grandfather late Lungkhothang Singson. In such view of the matter, it would be appropriate to direct the matter to be heard by the SDO, Tipaimukh and pass appropriate order in this regard, as two parties claim Chiefship of Lungthulien village.

[21] Accordingly,

(a) the writ petition is allowed and the stay order dated 30.06.2010 passed by the Deputy Commissioner, Churachandpur District in Hill Revision Case No. 2 of 2010 and the order dated 11.2.2010 passed by the SDO, Tipaimukh are set aside and the matter is remitted to the SDO, Tipaimukh.

(b) The SDO, Tipaimukh is directed to issue notice to both the second writ petitioner and third respondent calling upon them to establish their case of Chiefship of Lungthulien village and upon hearing both parties and upon affording opportunity of hearing to both sides, the SDO, Tipaimukh is direct to pass appropriate orders in accordance with law in

such regard. Such an exercise shall be done within a period of three months from the date of receipt of a copy of this order.

(c) No costs.

[22] The Registry is directed to issue copy of this order to both parties and other Government officials concerned to their whatsapp/e.mail.

JUDGE

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