

GAHC010095882023



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

Case No. : Crl.Pet./444/2023

NURUL ISLAM LASKAR
S/O LATE ISKANDAR ALI LASKAR
R/O VILL- RONGPUR, PART-IV,
P.S. SILCHAR
DIST. CACHAR

VERSUS

THE STATE OF ASSAM AND 5 ORS
TO BE REP. BY THE PP, ASSAM

2:KHALIQUE UDDIN CHOUDHURY
S/O LATE NAMAR ALI CHOUDHURY
R/O KALINAGAR PART-V

DIST. HAILAKANDI
PRESENTLY RESIDING
RONGPUR PART-III
P.S. SILCHAR

DIST. CACHAR

3:AZIZUR RAHMAN BARBHUIYA
S/O JAMSED ALI BARBHUIYA
R/O VILL- SEUTI

PORGONA- BILRAMPUR

P.S. KATHIGORAH
DIST. CACHAR
PRESENTLY RESIDING AT RONGPUR
PART-III

PORGONA- BARAKPAR
P.S. SILCHAR
DIST. CACHAR
ASSAM

4:MUSSTT. HAMIDA KHANAM CHOUDHURY
W/O KHALIQUE UDDIN CHOUDHURY
R/O KALINAGAR PART-V

DIST. HAILAKANDI

PRESENTLY RESIDING RONGPUR PART-III
PORGONA-BARAKPAR
P.S. SILCHAR
DIST. CACHA

Advocate for the Petitioner : MR H R A CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR JUSTICE ROBIN PHUKAN
ORDER

11.10.2023

Heard Mr. A. Ahmed, learned counsel for the petitioner. Also heard Mr. K. Baishya, learned Additional Public Prosecutor for the State respondent and Ms. R. Choudhury, learned counsel appearing on behalf of respondent Nos. 2, 3 and 4.

2. In this petition under Section 482 of the Code of Criminal Procedure, 1973, read with Article 227 of the Constitution of India, the petitioner, namely, Nurul Islam Laskar, has challenged the correctness or otherwise of the order dated 05.04.2023, passed by the learned Additional Sessions Judge (FTC), Cachar, Silchar, in Criminal Revision Case No. 61 of 2023.

3. It is to be noted here that vide impugned order dated 05.04.2023, the learned Court below has stayed the operation of the order dated 31.03.2023,

passed by the learned ADM, Cachar, Silchar, in Case No. 225^M/2023.

4. Perused the petition and the documents placed on record and also perused the objection filed by respondent Nos. 2 to 4 and also perused the additional affidavits dated 21st June, 2023 and 14th July, 2023, filed by respondent Nos. 2 to 4 and also perused the additional affidavit filed by the petitioner dated 2nd August, 2023, and the impugned order dated 05.04.2023.

5. It appears that vide impugned order dated 05.04.2023, the learned Court below has stayed the operation of the order dated 31.03.2023, passed by the learned ADM, Cachar, Silchar, in Case No. 225^M/2023, whereby the learned ADM has drawn up a proceeding under Section 145 CrPC and asked the parties to file written statement in respect of claim over the disputed land and to attach the disputed land under Section 146 (1) CrPC and restrained both the parties from entering into the disputed land, until further orders.

6. Since the order dated 05.04.2023, is an interim order, and also considering the facts and circumstances on the record, this Court is inclined to dispose of this petition by relegating the parties to approach the learned Court below by filing appropriate application for modification or vacation of the impugned order, with a certified copy of this order, within a period of one week from today and after receiving the copy of the order of this Court, the learned Court below shall endeavour to dispose of said application within a period of 15 days from today, without being influenced by any of the observation made by this Court.

7. In terms of above, this criminal petition stands disposed of. Till disposal of the application, the interim order, passed by this Court on 12.05.2023, shall continue.

8. The respondents will be at liberty to file their objection before the learned Court below.

JUDGE

Comparing Assistant