

GAHC010128742022



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

Case No. : Crl.Pet./627/2022

JABED ALI MONDAL
S/O LATE ABDUR RAHMAN MONDAL,. R/O VILL-KDOTIKA, NEAR AMBARI
TINIALI BAZAR, P.S.-BAGUAN, DIST-GOALPARA, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:ABDUL KADER MONDAL
S/O LATE ABDUR RAHMAN MONDAL
R/O VILL-KDOTIKA
NEAR AMBARI TINIALI BAZAR
P.S.-BAGUAN
DIST-GOALPARA
ASSAM
PIN-78310

Advocate for the Petitioner : MR. A M BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

JUDGMENT

Date : 03-05-2023

1. Heard Mr. A.M. Bora, learned Senior Counsel for the petitioner assisted by learned counsel Mr. V.A. Chowdhury. Also heard Mr. HRA Choudhury, learned Senior Counsel for

respondent No. 2 assisted by learned counsel Mr. N. Uddin and Mr. B. Sharma, learned Addl. P.P. for respondent No. 1.

2. The petitioner Javed Ali Mondal has filed an application under Section 482 Cr.P.C. for quashing the order dated 21.05.2021 passed in Misc. Case No. 60/2021 by the Additional District Magistrate at Goalpara and the proceedings of Misc. Case No. 60/2021 pending before the District Executive Magistrate, Goalpara.

3. It is submitted that the petitioner and the respondent No. 2 are brothers and being relatives, there is no likelihood of breach of peace and public tranquility because the matter is pre-dominantly private in nature. An FIR was lodged by Abdul Kader Mondal i.e. the respondent No. 2 against the petitioner and other persons named in the FIR contending *inter alia* that the respondent No. 2 has been in occupation and possession of a plot of land admeasuring 1 Bigha 1 Katha 13 Lechas appertaining to Dag No. 280 and another plot of land admeasuring 2 Kathas 18 Lechas appertaining to Dag No. 277 of Kadotika village under Balijana Circle. On 12.04.2021, taking advantage of the absence of respondent No. 2, the petitioner along with the others named in the FIR, illegally trespassed into the vacated plot of land and started erecting a fence around the land. In the evening, when the respondent No. 2 tried to prevent the illegal encroachment, the local people had to stop the mob who were armed with dao, lathi, sabul etc. Again on 13.04.2021 the petitioner along with some other unknown miscreants started constructing a house on the afore-mentioned plot of land, and the respondent No. 2 had to stop them with the help of the police, but again the petitioner along with his associates tried to enter into the respondent No. 2's land and threatened him with dire-consequences. On 01.05.2021 at about 2 AM, the petitioner along with his associates trespassed into the respondent No. 2's land and constructed a temporary roof. This

impelled the respondent No. 2 to file a petition for registration of a case under Section 145/107/146 Cr.PC. This complaint was registered as Misc. Case No. 60/2021 vide the impugned Order dated 21.05.2021 which is reproduced herein below verbatim:

“Order: *Seen the NON-FIR case No. 07/2021 submitted by the O/c Bagun P.S., it appeared that there is likelihood of breach of peace between the parties. I am satisfied with the reports and register a case u/s 107/145/133 Cr.P.C. The case is transferred to the court of Dr. Asraful Amin / Rituparna Das, AC Goalpara for disposal.”*

4. Against this order, a revision was preferred being Criminal Revision No. 12/2021 and this was disposed of by the Sessions Judge, Goalpara holding that the order is not amenable to revision as the order is an interlocutory order which reveals registration of a case and issuance of notice to parties of the proceeding. The learned counsel for the petitioner has impugned the order on the ground that the order dated 21.05.2021 is not an interlocutory order as the order has already decided the rights of the parties.

5. The learned counsel for the petitioner relied on the decision of this Court in:-

- i. *Ashok Kumar Ghose vs. Khetra Mohan Das MANU/GH/0053/1990;*
- ii. *Jesmin Rahman vs. Afruza Begum & Ors. MANU/GH/0407/2007; and*
- iii. *Swapan Choudhury vs. The State of Assam and Ors. MANU/GH/0328/2012.*

6. The learned counsel for respondent No. 2 relied on the following decisions:-

- i. *Amit Kapoor v. Ramesh Chander & Another, reported in (2012) 9 SCC 460;*
and
- ii. *Girish Kumar Suneja v. Central Bureau of Investigation, reported in (2013)*

14 SCC 809.

7. It has been held in *Ashok Kumar Ghose's* case that –

“5. It was further observed in the above case that [Section 145](#), clearly states that to assume jurisdiction the Magistrate must be satisfied that the dispute is likely to cause "a breach of peace" and it is not a breach of mental peace of the parties but apprehended breach of peace in the locality. Ordinarily a person dispossessed of property must sue for recovery of specific immovable property under [Sections 5](#) and [6](#) of the Specific Relief Act and if there is a threat to dispossess him he should institute a suit to obtain injunction. The Court further held, these are forum for establishing the rights of the litigants and a proceeding under [Section 145](#), Cr. P.C. is, therefore, an extraordinary provision to grant extraordinary relief when there is likelihood of breach of peace in the locality. It was laid down that private dispute between two persons which does not disturb law and order or occasion breach of peace in the locality, the forum for getting relief is the civil court of competent jurisdiction. I am in respectful agreement with the observation and law laid down in the above decision and I do not see any reason to take different view.

6. XXXXXXXXXXXXXXXX

7. [Section 145](#) finds place in Chapter X, Cr. P. C. under the Heading 'Maintenance of Public Order and Tranquillity'. As held by this Court order under [Section 145](#) can be promulgated only when there is apprehension of breach of peace or tranquillity in any locality concerning any immovable property. Merely because there may be dispute between two private parties a proceeding under [Section 145](#) cannot be drawn up unless the Magistrate is satisfied that this private dispute may disturb the peace or tranquillity of that area.”

8. It was held in *Swapan Choudhury's case (supra)* that –

“13. Learned counsel for the petitioner by referring to the decision of a single Bench of this Court in *Maqbul Hussain Vs. Syadur Rahman* (1986) 2 GLR 167 submitted that the dispute between the parties is a civil dispute, therefore exercise of jurisdiction by the Executive Magistrate, under [Section 145](#) CrPC is illegal warranting interference by this Court. The relevant extract of the above decision in *Maqbul Hussain(Supra)* reads as follows -

1. It is difficult to obtain an order of injunction in a civil suit because the party is bound to satisfy the court that there is a prima facie case, the balance of convenience tilts in his favour and also to satisfy the court that if injunction is refused the applicant shall suffer irreparable injury. So many hurdles are to be crossed before obtaining an order of injunction. An order of injunction or prohibitory order takes away certain rights of the party injuncted. It is indeed difficult to obtain an injunction, but just throw a petition and assert that there is apprehension of breach of peace in respect of the possession of an immovable

property, claim for drawing up a proceeding assenting right to possess the property, a proceeding is readily drawn up under [Section 145](#) CrPC. The proceeding is initiated no matter whether it is a private dispute between the parties or it is a dispute which necessitates drawal of the proceeding for the maintenance of public order and tranquility.

2. The distinction between the concept of public order, law and order or public tranquility is to be found in the picturesque description drawn by Hidayatullah, J, in *Ram Manohar Lohia Vs. State of Bihar*, AIR 1966 SC

740. The distinction between the security of State, public order and law and order, i.e. public tranquility, has been defined by drawing three concentric circles. „Public Order“ comprehends disorder of less gravity than those affecting „public order“. One, is to close his eyes and take three concentric circles. Law and order represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to visualize that an act may affect law and order or public tranquility but not public order just as an act may affect public order but not security of the State. Public order means the even tempo of life of the community even in a specified locality. Disturbance of public order is to be distinguished from acts directed against individuals which do not disturb the society to the extent of vibrating a general disturbance of public tranquility. If a party illegally and forcibly occupies the land of another, people may be shocked and even mentally disturbed but the life of the community may keep on moving keeping pace with the even tempo of life of the community is disturbed or jeopardized, it may be a case of disturbance of public order and tranquility. The acts of private parties which affect personal rights and obligations only but do not disturb the even tempo of the society are merely private feuds for which action may not be necessary to be taken under Chapter X of the Code of Criminal Procedure. [Section 145](#) of the Code clearly states that to assume jurisdiction the Magistrate must be satisfied that the dispute is likely to cause "a breach of peace". It is not a breach of mental peace of the parties but apprehended breach of peace in the locality. Ordinarily, a person dispossessed of property must sue for recovery of specific immovable property under [Section 5](#) and [6](#) of the Specific Relief Act and if there is threat to dispossess him he should institute a suit to obtain injunction. These are forum for establishing the right of the litigants. A proceeding under [Section 145](#) CrPC is, therefore, an extraordinary provision to grant extra- ordinary relief when there is likelihood of breach of peace in the locality. The final order of magistrate is subject to the decision of the civil court. It is, therefore, seen that private dispute between two persons which does not disturb law and order or occasion a breach of the peace in the locality the forum for getting relief is the civil court of competent jurisdiction. Now, what I find all around is that just on some pretext or pretence flood of proceedings under [Section 145](#) CrPC are entering in courts like flood water entailing wastage of public money and public time. Before taking up a proceeding under Section 145 of the Code the Magistrate must be careful cautious, circumspect and slow. The quint-essence of the decision of the Supreme Court in *Ram Sumer Puri Mahani Vs.*

State of U.P. AIR 1985 472 is to discourage proceedings under [Section 145](#) of the Code as far as possible. It is necessary to avoid multiplicity of litigation which is against the interest of the parties and in most of the cases public time is wasted over meaningless and unnecessary proceedings. In Ram Sumer(Supra) a note of warning has been sounded by the Supreme Court that the Magistrate should initiate proceedings under [Section 145](#) of the Code when the essential elements of the section are found to be present in the case. However, these are my passing observations." and

9. It was held in *Jesmin Rahman's* case (*supra*) that –

“20. Logically, therefore, when an order is made, under Sub-section (1) of [Section 145](#), without the conditions precedent for exercise of such jurisdiction being present, the passing of the order, drawing the proceeding, would be tantamount to assumption of jurisdiction, wherein no jurisdiction exists. We need to remember that when an order substantially affects the rights of the parties, such an order cannot be regarded as an interlocutory order. The drawing of a proceeding, under Sub-section (1) of [Section 145](#), is an order of great moment and such an order substantially affects the rights of the parties. Unless the conditions precedent for exercise of jurisdiction under [Section 145\(1\)](#) exist in a given case, drawing of proceeding, under [Section 145\(1\)](#), in such a case, would be wholly without jurisdiction and an order, which is wholly without jurisdiction, cannot be regarded as an interlocutory order. It is also of immense importance to note that an order under [Section 146](#) is not independent of a proceeding under [Section 145](#), for, it is only when a proceeding has been drawn under [Section 145](#) that the order of attachment can be made. This apart, an order of attachment can be withdrawn at any time if the Magistrate is satisfied that likelihood of breach of peace no longer exists with regard to the subject of dispute. As an order of attachment cannot be passed without drawing a proceeding under [Section 145](#), it logically follows that when a preliminary order drawing a proceeding under [Section 145](#) (1) is challenged as an order without jurisdiction, there is no impediment, on the part of the revisional Court, to revise in an appropriate case, such an order.

What emerges from the above discussion is that the passing of a preliminary order, in exercise of jurisdiction, under Sub-section (1) of [Section 145](#), is not an interlocutory order and in a given case, it is open to a Sessions Judge to set aside such an order in exercise of his jurisdiction under [Section 397](#) read with Section 401 of the Code.”

10. The learned Senior Counsel for the respondent No. 2 laid stress in his argument that the petitioner has preferred a revision against the order dated 21.05.2021 which is an interlocutory order but the petitioner has not preferred revision against the impugned order dated 21.08.2021. This is not a case between two brothers only, but this is a case between

the petitioner as well as the respondent no. 2 and others who are not brothers and there is every possibility of breach of peace and public tranquillity. The respondent No. 2 has relied on the decision of Hon'ble Supreme Court in *Amit Kapoor vs. Ramesh Chander and Another*, reported in (2012) 9 SCC 460 that –

“13. Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner. One of the inbuilt restrictions is that it should not be against an interim or interlocutory order. The Court has to keep in mind that the exercise of revisional jurisdiction itself should not lead to injustice ex facie. Where the Court is dealing with the question as to whether the charge has been framed properly and in accordance with law in a given case, it may be reluctant to interfere in exercise of its revisional jurisdiction unless the case substantially falls within the categories aforesaid. Even framing of charge is a much advanced stage in the proceedings under the [Cr.P.C](#)”

21. It may be somewhat necessary to have a comparative examination of the powers exercisable by the Court under these two provisions. There may be some overlapping between these two powers because both are aimed at securing the ends of justice and both have an element of discretion. But, at the same time, inherent power under [Section 482](#) of the Code being an extraordinary and residuary power, it is inapplicable in regard to matters which are specifically provided for under other provisions [of the Code](#). To put it simply, normally the court may not invoke its power under [Section 482](#) of the Code where a party could have availed of the remedy available under [Section 397](#) of the Code itself. The inherent powers under [Section 482](#) of the Code are of a wide magnitude and are not as limited as the power under [Section 397](#). [Section 482](#) can be invoked where the order in question is neither an interlocutory order within the meaning of [Section 397\(2\)](#) nor a final order in the strict sense. Reference in this regard can be made to [Raj Kapoor & Ors. v. State of Punjab & Ors.](#) [AIR 1980 SC 258 : (1980) 1 SCC 43]}. In this very case, this Court has observed that inherent power under [Section 482](#) may not be exercised if the bar under [Sections 397\(2\)](#) and [397\(3\)](#) applies, except in extraordinary situations, to prevent abuse of the process of the Court. This itself shows the fine distinction between the powers exercisable by the Court under these two provisions. In this very case, the Court also considered as to whether the inherent powers of the High Court under [Section 482](#) stand repelled when the revisional power under [Section 397](#) overlaps. Rejecting the argument, the Court said that the opening words of [Section 482](#) contradict this

contention because nothing in the Code, not even Section 397, can affect the amplitude of the inherent powers preserved in so many terms by the language of Section 482. There is no total ban on the exercise of inherent powers where abuse of the process of the Court or any other extraordinary situation invites the court's jurisdiction. The limitation is self-restraint, nothing more. The distinction between a final and interlocutory order is well known in law. The orders which will be free from the bar of Section 397(2) would be the orders which are not purely interlocutory but, at the same time, are less than a final disposal. They should be the orders which do determine some right and still are not finally rendering the Court functus officio of the lis. The provisions of Section 482 are pervasive. It should not subvert legal interdicts written into the same Code but, however, inherent powers of the Court unquestionably have to be read and construed as free of restriction."

11. The Respondent No. 2 has also relied on the decision of the Hon'ble Supreme Court in *Girish Kumar Suneja v. Central Bureau of Investigation*, reported in (2013) 14 SCC 809 that –

"24. The second reason why *Amar Nath* is important is that it invokes the principle, in the context of criminal law, that what cannot be done directly cannot be done indirectly. Therefore, when Section 397(2) of the Cr.P.C. prohibits interference in respect of interlocutory orders, Section 482 of the Cr.P.C. cannot be availed of to achieve the same objective. In other words, since Section 397(2) of the Cr.P.C. prohibits interference with interlocutory orders, it would not be permissible to resort to Section 482 of the Cr.P.C. to set aside an interlocutory order. This is what this Court held:

"3. While we fully agree with the view taken by the learned Judge that where a revision to the High Court against the order of the Subordinate Judge is expressly barred under sub-section (2) of Section 397 of the 1973 Code the inherent powers contained in Section 482 would not be available to defeat the bar contained in Section 397(2). Section 482 of the 1973 Code contains the inherent powers of the Court and does not confer any new powers but preserves the powers which the High Court already possessed. A harmonious construction of Sections 397 and 482 would lead to the irresistible conclusion that where a particular order is expressly barred under Section 397(2) and cannot be the subject of revision by the High Court, then to such a case the provisions of Section 482 would not apply. It is well settled that the inherent powers of the Court can ordinarily be exercised when there is no express provision on the subject-matter. Where there is an express provision, barring a particular remedy, the Court cannot resort to the exercise of inherent powers."

12. Now the question that falls for consideration is that whether the petition is

maintainable or is barred on a conjoined reading of Section 397(2) and Section 482 of the Cr.PC as it springs from an ostensibly interlocutory order.

13. The learned counsel for the petitioner has emphasized through his argument that the order has decided the rights of the parties and does not tantamount to be an interlocutory order. This matter is pre-dominantly private in nature and there is no question of breach of peace and public tranquility. An FIR was lodged against six family members. The second party as enlisted in the FIR are relatives which is apparent from the description from the complaint itself which is marked as Annexure-2 and tagged along with this petition. Although the Magistrate did not spell out any reason but vide the impugned order, the Magistrate has held that there is likelihood of breach of peace between the parties. An order was passed to register a case under Sections 107, 145 and 146 Cr.PC. and vide the order, the learned Magistrate has also observed that he was satisfied with the reports submitted by the police. Then the case was transferred to the Court of Assistant Commissioner, Goalpara for disposal.

14. The learned counsel for the petitioner has played the argument of the learned counsel for the respondent No. 2 stating that how can an order directing registration of a case be termed as interlocutory order.

15. In the instant case, the impugned order was passed to register a case. When a case is registered against a party it indeed decides the rights of the parties. Admittedly, the order dated 21.08.2021 is not an interlocutory order as the land covered by Dag No. 277 and Dag No. 280 of part B was attached vide order dated 21.08.2021.

16. At present we are concerned only with the order impugned by the petitioner i.e. the order dated 21.05.2021 in Misc. Case No. 60/2021. On behalf of the petitioner it is submitted

that as the respondents tried to construct a house over their plot of land, the petitioner is the one who is aggrieved but the respondent No. 2 has falsely lodged an FIR against the petitioner and his family members. Thereafter, the Additional District Magistrate forwarded the application to the OC, Buguan P.S. for an enquiry into the matter and to submit a report and a report dated 17.05.2021 was submitted which is marked as Annexure-2. The Annexure-3 clearly depicts that the petitioner and the respondent No. 2 being brothers are also in occupation and possession of the disputed land.

17. It has been held by the Hon'ble Supreme Court in *Ashok Kumar Ghose's case (supra)* that "*Merely because there may be disputes between two private parties; a proceeding under Section 145 cannot be drawn up unless the Magistrate is specified that this private dispute may disturb the peace or tranquility of that area*".

18. In the instant case it is apparent from the police report marked as Annexure-1 that this dispute is also a dispute between the family members i.e., the petitioner No. 1 and the respondent No. 2. Moreover, the proceeding was drawn up and an order of attachment was passed at the initial stage. Evidences of witnesses were not recorded and it could not be deciphered at this stage whether this family dispute will lead to a general disturbance of public tranquility. The picturesque description drawn in *Sapan Choudhury's case (supra)* has to be borne in mind. We have to envision three concentric circles:-

"Law and order represents the largest circle within which is the next circle representing 'public order' encompassing the innermost circle i.e. the security of the State. It was held that disturbance of public order is to be distinguished from acts directed against individuals which do not disturb the society to the extent of vibrating a general disturbance of public

tranquility". In the instant case no such disturbance of the even tempo of life of the community in the specified locality, or the disputed land could be deciphered.

19. The learned Senior Counsel for respondent No. 2 laid stress in his argument that it has been observed in *Amit Kapoor's* case (*supra*) that "Section 482 can be invoked when the order in question is neither an interlocutory order within the meaning of Section 397(2) nor final order in a strict sense. Reference in this regard can be made to *Raj Kapoor & Others v. State of Punjab & Others* [AIR 1980 SC 258]. In this very case, it was observed that inherent power under Section 482 may not be exercised if the bar under Section 397(2) and 397(3) applies, except in extraordinary situations, to prevent abuse of the process of the Court."

20. However, in *Amit Kapoor's* case (*supra*) it has also been observed that "*there is no total ban on the exercise of inherent powers where abuse of the process of the process of the Court or any other extraordinary situation invites the Court's jurisdiction. The limitation is self-restraint, nothing more. The distinction between a final and interlocutory order is well known in law. The orders which will be free from the bar of Section 397(2) would be the orders which are not purely interlocutory but, at the same time are less than a final disposal. They should be the orders which do determine some right and still are not finally rendering the Court functus officio of the lis. The provisions of Section 482 are pervasive. It should not subvert legal interdicts written into the same Code but, however, inherent powers of the Court unquestionably have to be read and construed as free of restriction.*"

21. Reverting back to this case it is held that vide the order dated 21.05.2021 a case was registered against the present petitioner/second party named in the FIR marked as Annexure-1. While passing an order for registration of a case the Magistrate has observed that he is

satisfied with the police report and there appears to be likelihood of breach of peace between the parties. Through the impugned order, cognizance was taken and the Misc. Case No. 60/2021 was registered.

22. It has also been held in *Girish Kumar Suneja's case (supra)* that –

“30. What then is the utility of [Section 482](#) of the Cr.P.C.? This was considered and explained in *Madhu Limaye* which noticed the prohibition in [Section 397\(2\)](#) of the Cr.P.C. and at the same time the expansive text of [Section 482](#) of the Cr.P.C. and posed the question: In such a situation, what is the harmonious way out? This Court then proceeded to answer the question in the following manner:

“In such a situation, what is the harmonious way out? In our opinion, a happy solution of this problem would be to say that the bar provided in sub-section (2) of [Section 397](#) operates only in exercise of the revisional power of the High Court, meaning thereby that the High Court will have no power of revision in relation to any interlocutory order. Then in accordance with one of the other principles enunciated above, the inherent power will come into play, there being no other provision in [the Code](#) for the redress of the grievance of the aggrieved party. But then, if the order assailed is purely of an interlocutory character which could be corrected in exercise of the revisional power of the High Court under the 1898 Code, the High Court will refuse to exercise its inherent power. But in case the impugned order clearly brings about a situation which is an abuse of the process of the Court or for the purpose of securing the ends of justice interference by the High Court is absolutely necessary, then nothing contained in [Section 397\(2\)](#) can limit or affect the exercise of the inherent power by the High Court. But such cases would be few and far between. The High Court must exercise the inherent power very sparingly.”

23. This observation eases out any fetters to the restriction if an order appears to be an abuse of the process of the Court. In the instant case it has to be ascertained if the dispute is predominantly private in nature. Although the order dated 21.05.2021 is an order of registration of a case and transfer of the case to the Magistrate for disposal, yet vide the subsequent order dated 21.08.2021 the learned Executive Magistrate attached the disputed land for maintenance of public peace and tranquility to prevent any unpleasant happening between the parties. It is true that witnesses were not examined before the order dated 21.08.2021 was passed but a date was fixed for compliance report of the order and for

evidence of witnesses on 28.09.2021. Here at this juncture on the basis of the lower Court records it cannot be ascertained if the dispute was a private dispute between two brothers or whether the land dispute would disturb the even tempo of the life of the community and may result in disturbance of public peace and tranquility. In the complaint lodged by the respondent No. 2 before the DM(EX) at Goalpara, the present petitioner is arrayed as opposite party No. 1. Opposite Party No. 2 is his son whereas the other opposite-party does not appear to be family members of the opposite-party No. 1. For quashing a proceeding under Section 482 Cr.PC, it is not necessary to go into the details of the evidence, but in the instant case, it cannot be ascertained if this dispute is predominantly private in nature or if the land dispute between two brothers will disturb the public peace and tranquility in the locality. It is also true that the Magistrate has to circumspect before registering a case under Section 145 Cr.PC to avoid multiplicity of litigations. Land dispute can best be decided by Civil Court. Even then I am hesitant to invoke the inherent jurisdiction under Section 482 Cr.PC and quash the proceeding altogether. The Court of the Executive Magistrate can best decide the proceeding under Sections 107/145/133 Cr.PC. The Misc. Case No. 60/2021 is fixed for production of evidence and witnesses. On the basis of the evidence the learned Executive Magistrate will be better equipped to arrive at a decision if there is any likelihood of breach of peace and tranquility between the parties over the possession of the land admeasuring 1 Bigha 1 Katha 13 Lechas appertaining to Dag No. 280 and another plot of land admeasuring 2 Kathas 18 Lechas appertaining to Dag No. 277 of Kadotika village under Balijana Circle.

In view of my foregoing discussions, petition is dismissed.

JUDGE

Comparing Assistant