

GAHC010017502023



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

Case No. : Crl.Rev.P./57/2023

SOMEZ ALI @ SOMEZ UDDIN
S/O- AZGAR ALI, R/O- VILL.- JAUKATADIA, P.O. AND P.S. BOKO, DIST.
KAMRUP, ASSAM, PIN- 781123.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE P.P., ASSAM

2:ABDUL KADER @ KADER ALI
S/O- LATE KORBAN ALI AKAND
R/O- VILL.- JAUKATADIA
P.O. AND P.S. BOKO
DIST. KAMRUP
ASSAM
PIN- 781123.

3:ATAUR RAHMAN
S/O- LATE KORBAN ALI AKAND
R/O- VILL.- JAUKATADIA
P.O. AND P.S. BOKO
DIST. KAMRUP
ASSAM
PIN- 781123.

4:NAZMOL HUDA
S/O- DILUWAR AKAND
R/O- VILL.- JAUKATADIA
P.O. AND P.S. BOKO
DIST. KAMRUP
ASSAM
PIN- 781123.

5:LIAKOT ALI
S/O- DILUWAR AKAND
R/O- VILL.- JAUKATADIA
P.O. AND P.S. BOKO
DIST. KAMRUP
ASSAM
PIN- 781123

Advocate for the Petitioner : MR. D BORAH

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 24.05.2024

Heard Mr. R.K. Talukdar, learned counsel for the petitioner. Also heard Mr. P. Barthakur, learned Additional Public Prosecutor for the State/respondent No.1 and Mr. J. Ahmed, learned counsel for the respondent Nos. 2 to 5.

2. The present revision petition is filed against the order dated 04.11.2022 passed by the learned Executive Magistrate, Kamrup (Amingoan) in case No. 52^m/2022.

3. The aforesaid case was taken up on the strength of a report received from Circle Officer, Chamaria Revenue Circle dated 21.02.2022 in connection with Boko P.S. Case Nos. 82/2022 and 83/2022. As per the aforesaid report, there were apprehension of breach of peace between the parties as regards possession of a plot of land measuring 9B-2K-12L covered by Dag No. 937 of K.P. Patta No. 212. Accordingly, by an order dated 11.03.2022, the disputed land was attached.

4. Subsequently, by the impugned order dated 04.11.2022, the proceeding was closed holding that the second party/present respondents are having possession over the disputed land. Such determination was made on the basis of a report of the Lat Mandal dated 05.03.2022 and on the basis of the judgment of the learned Civil Judge, Junior Division No. 3 dated 10.09.2004 passed in Title Suit No. 23/2001 filed by the predecessor-in-interest of the present petitioner. The said order dated 04.11.2022 is under challenge in this present petition.

5. Title Suit No. 23/2001 was preferred by the predecessor-in-interest of the present petitioner for declaration of right, title and interest and confirmation of possession over the disputed plot of land. One issue was framed to the effect that whether plaintiff is in possession over the suit property. The learned trial court answered the aforesaid issue against the plaintiff i.e. the predecessor-in-interest of the present petitioner.

6. That being the position, the decision of the learned Magistrate cannot be faulted with, inasmuch as, the Judicial Magistrate cannot re-determine the issue of possession, when decision in this regard involving in the same property has already been determined by a competent Civil Court and decree has already been passed.

7. In view of the aforesaid, this Court finds no merit in the present revision petition. Accordingly, the criminal revision petition stands dismissed.

JUDGE

Comparing Assistant