

GAHC010120382012



2024:GAU-AS:11413

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

Case No. : Crl.Rev.P./103/2012

SMTI HAZERA BEWA
D/O LT. MOJID SK. R/O VILL- KAZIPARA, CHAPAR, P.O. BILASIPARA, DIST.
DHUBRI, ASSAM,

VERSUS

THE STATE OF ASSAM and ANR

2:MD MOIDUL HOQUE
S/O LT. SANIA SK. R/O VILL- CHAPAR
P.O. BILASIPARA DIST. DHUBRI
ASSA

Advocate for the Petitioner : MR.N PATHAK, MR.D K SARMAH,MR.S K DAS,MS.A
TALUKDAR

Advocate for the Respondent : PP, ASSAM, MR.S NATH,MS.S CHAKRABORTY,

BEFORE

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

22-11-2024

1. Heard Ms. J. Deka, learned counsel appearing on behalf of Mr. D. K. Sarmah, learned

counsel for the petitioner. Also heard Mr. S. Nath, learned counsel for the respondents.

2. By this application filed under Section 401 of the Code of Criminal Procedure, 1973, the petitioner has prayed for setting aside and quashing the judgment and order dated 23.11.2011 passed by the learned Sessions Judge, Dhubri in C.R. No. 15(1)/2011, whereby an order of attachment dated 24.12.2010 passed in Misc. Case No. 225/2010 by the Executive Magistrate, Bilasipara in exercise of power conferred under Section 145(4) was interfered.

3. The petitioner herein preferred the aforesaid Misc. Case No. 225/2010 under Section 145 CrPC and the learned Executive Magistrate, Bilasipara by its order dated 24.12.2010 directed to attach the disputed property. The present respondent No.2 was the opposite party in the aforesaid proceeding.

4. Being aggrieved, the respondent No. 2 preferred C.R. No. 15(1)/2011, a revision petition before the learned Sessions Judge, Dhubri, assailing said order dated 24.12.2010 passed by the learned Executive Magistrate in Misc. Case No. 225/2010. The learned Sessions Judge, Dhubri, after considering the matter on merit by its judgment and order dated 23.11.2011 interfered with the order of attachment dated 24.12.2010 and allowed the revision petition.

5. Being aggrieved with the aforesaid order dated 23.11.2011, the present petition has been filed.

6. The learned counsel for the respondents submits that there were also a series of litigation involving the same plot of land between the parties and finally the matter reached up to this Court in WP(C) No. 451/2012 which was preferred by the present petitioner assailing certain actions taken by the revenue authority in cancelling the settlement made in favour of the petitioner.

7. Finally, this Court under its order dated 26.05.2016 passed in WP(C) No. 451/2012 had set aside the settlement order dated 09.08.2010 passed in DKSR 2/2009/52 and directed the Deputy Commissioner, Dhubri to re-examine the claim of the private respondent therein,

in pursuance of the direction made by the Revenue Board on 14.12.2009 in Case No. 80 RA(DBR)/2008. This Court further directed that while considering the claim of the successors of the khatian holders, all the relevant materials should be considered and an opportunity of hearing should be given to both the parties as they claim to be in possession of the disputed land.

8. It was also provided that the final decision of the Deputy Commissioner, Dhubri will determine the respective claims of the two litigant groups and it was further provided that until the matter is decided on merit, status quo is to be maintained by both the parties without creating any third party interest over the land. In the considered opinion of this Court, in view of the determination as recorded herein above by this Court in earlier writ petition, nothing survives to be adjudicated in the present petition.

9. While parting with the record, it is made clear that the observation made in this order shall not be treated as comment on the merit of the claim of the petitioner as well as the respondent over the disputed plot of land. Accordingly, this revision petition stands closed.

JUDGE

Comparing Assistant