

GAHC010225392014



2024:GAU-AS:10874

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

**Case No. : Crl.Pet./308/2014**

MUBINUL HOQUE LASKAR  
S/O LT. ANSARUL HAQUE LASKAR R/O NITAINAPAR PT-III, P.O. NITAI  
NAGAR, P.S. HAILAKANDI, DIST. HAILAKANDI, ASSAM.

VERSUS

MANIK UDDIN and 5 ORS.  
S/O MAHARAM ALI

2:ISLAM UDDIN  
S/O MOHARAM ALI

3:MOHARAM ALI  
S/O LT. TABARAK ALI

4:ABDUL JABBAR  
S/O ADOPTED LT. TABARAK ALI

5:AINUL HAQUE  
S/O LT. BASIR UDDIN

6:JAMRUL HAQUE  
S/O LT. SAYER ALI ALL ARE R/O VILL- NITAINAGAR  
PART-III  
P.O. NITAI NAGAR  
P.S. HAILAKANDI  
DIST. HAILAKANDI  
ASSAM

**Advocate for the Petitioner** : MR.A DEY, MS.M DEB,MR.J LASKAR,MR.B BANERJEE,MR.D  
F A AHMED

**Advocate for the Respondent :** MR.G UDDINR- 1-4, MR.A B T HAQUE,MR.K R SURANA,MS.A CHOUDHURY,MS.M BURAGOHAIN(R- 1-4),MRH I CHOUDHURY

**BEFORE  
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

**ORDER**

**Date : 06.11.2024**

1. None appears for the petitioner on call, though Mr. G Uddin learned counsel for the respondent Nos.1 to 4 is present.

2. The present petition is filed under section 482 Cr.P.C., assailing the judgment and order dated 30.01.2014 passed in CrI.Rev.P No.1/2013 by the learned Sessions Judge, Hailakandi, whereby the said revision petition was dismissed affirming the order dated 05.10.2012 passed by the learned SDJM, Hailakandi in Case No.135<sup>M</sup>/2007.

3. The aforesaid case No.135<sup>M</sup>/2007 was filed by the petitioner under section 145 Cr.P.C arraying the present respondents as opposite parties in the aforesaid case.

4. The allegation leveled in the aforesaid proceeding was that the petitioner is the owner of the disputed land and he has inherited the land through his late father Alhaz Abdul Haque Laskar and that the opposite parties therein have no right, title and interest and possession in respect of the disputed land and that the second parties are dangerous persons and they are trying to dispossess the first party and his brother from the disputed land. It was also alleged that on 23.07.2007 at about 7.00 AM, the second party, present respondents along with other persons with weapons tried to trespass into the disputed land but due to resistance raised by the first party and other neighbours, the second party respondents left the place.

5. On the basis of the aforesaid complaint, proceeding under section 145 Cr.P.C was drawn by the learned Executive Magistrate, Hailakandi under its order dated 24.07.2007 and the disputed land was attached under section 146(1) Cr.P.C prohibiting both the parties from entering into the disputed land until further orders.

6. Being aggrieved, by the aforesaid order dated 24.07.2007, the present respondents preferred a revision petition before the learned Sessions Judge which was registered as Crl. Revision No.67/2007 and the learned Sessions Judge remanded the matter to the Executive Magistrate by interfering with the order dated 24.07.2007 on the ground that the learned Executive Magistrate has drawn up the proceeding under section 145 Cr.P.C without calling any report from the police or other sources.

7. Thereafter, the aforesaid proceeding was dropped on 05.10.2012 by the Executive Magistrate on the basis of a report of the Assistant Settlement Officer. Thereafter the petitioner herein once again approached the learned Sessions Judge, Hailakandi by filing Criminal Revision No.1/2013 assailing the order dated 05.10.2012 and by the order dated 30.01.2014, the learned Sessions Judge dismissed the revision Petition and the present petition is filed assailing the aforesaid order.

8. None appears for the petitioner to advance his case, however, from the perusal of the materials and the ground cited reflects that the fundamental ground of assailing the aforesaid order that both the courts below have failed to consider the evidence of PW-1, PW-2 inasmuch as it is his case that the PW-1 has specifically deposed that he is in possession of the disputed land. It is further alleged that the evidence is not taken in its proper perspective.

9. Per contra, Mr. Uddin learned counsel for the respondents submits

that there is no material irregularity and illegality in the orders impugned in the present petition and therefore, this is not a fit case where this court should exercise its power under section 482 Cr.p.C., more particularly when on appreciation of evidence, both the learned courts below has declined to accept the contentions raised by the parties.

10. I have given anxious considerations to the arguments advanced by the learned counsel for the parties.

11. In exercise of its inherent power, this Court can set right a patent defect or an error of jurisdiction or of law, can pass order to prevent abuse of process and for securing ends of justice. Such power can also be exercised where the decision under challenge are grossly erroneous, there is non compliance of provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. It is equally well settled that a revisional jurisdiction of High Court shall not be exercised in a routine manner. The Hon'ble Apex Court in ***Chandra Babu vs State*** reported in ***2015 (8) SCC 774*** held that normally revisional jurisdiction should be exercised in a question of law however, when factual appreciation is involved, then it must find place in the class of cases resulting in a perverse finding. The Supreme Court went to say that the power is required to be exercised so that justice is done and there is no abuse of power by the Court.

12. Now coming to the case in hand, from the materials available on record, it is seen that the learned courts below has properly appreciated the materials evidence on record as regards the possession. It cannot be said that the conclusion arrive at are either based on irrelevant material or that material evidence being ignored while arriving at such conclusion. This Court is of the further opinion that there is no evidence on record even to suggest

that the petitioner was in possession over the property and that he has been wrongly dispossessed from the said property by the respondents.

13. Therefore, that being the position, this court in exercise of its power under section 482 Cr.P.C would not like to entertain and reverse the concurrent finding of facts that have been arrived at by the learned court below, that too on the proper appreciation of the materials available on record.

14. Accordingly, the present petition stands dismissed. However, while parting with the records, it is made clear that the observations made as regards possession in the present order is for the purpose of determination of the present case and that shall not be treated as final conclusion by this court on the right, title and interest or possession of either of the contesting parties in any other proceeding, presently or pending in future.

**JUDGE**

**Comparing Assistant**