GAHC010256562018

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

Case No. : CRP(I/O)/384/2018

ABDUL AZIZ
S/O- LT ISA HOQUE ALI, VILL- BANGALIPARA PT.II, P.O. AND P.S. BILASIPARA, DIST- DHUBRI, ASSAM, PIN- 783348

VERSUS

A.S.O. BILASIPARA CIRCLE AND 4 ORS.
P.O. AND P.S. BILASIPARA, DIST- DHUBRI, ASSAM, PIN- 783348

2:THE SDO (CIVIL)

3:THE SETTLEMENT OFFICER

4:THE STATE OF ASSAM

5:NURAL HOQU

Advocate for the Petitioner : MD H R AHMED

Advocate for the Respondent : MR. K R PATGIRI

BEFORE

THE HON'BLE MR JUSTICE PRASANTA KUMAR DEKA
O R D E R

02. 12. 2020

Heard Mr. HR Ahmed, learned counsel for the petitioner. Also present Mr. KR Patgiri, learned counsel for the respondent No. 5 and Mr. L N Dihingia, learned Government Advocate representing respondent Nos. 1 to 4.

The present petitioner as the plaintiff filed T.S. No. 122/2017 in the court of learned Munsiff cum JMFC at Bilasipara for declaration of his right, title and interest and possession of the suit land including for another declaration that the eviction order dated 03.05.2017 and 26.07.2017 issued by the respondent defendant ASO, Bilasipara are illegal and inoperative. In the said suit, the present petitioner impleaded the respondent No. 5 as the proforma defendant. The said respondent No. 5 filed his written statement against the claim of the present plaintiff petitioner. Thereafter, the respondent No. 5 filed an application before the learned court below seeking his transformation from proforma defendant No. 1 to main defendant in the said suit. The learned court below allowed the same vide impugned order dated 03.10.2018. Being aggrieved, the plaintiff petitioner has filed this revision petition.

Though Mr. Ahmed wanted to project that the learned court below passed the order without any jurisdiction, however, I am not satisfied to accept the said submission inasmuch as the plaintiff petitioner has impleaded the respondent No. 5 as proforma defendant but there is no bar in challenging the claim of the plaintiff petitioner by the said respondent No. 5 and for that purpose also no specific order is required by the learned court below for transformation of respondent No. 5 as main defendant. However, the learned court below holding that prima-facie the respondent No. 5 was aggrieved by the action of the plaintiff petitioner allowed the said application of impleadment of the petitioner as main defendant, I do not find any wrong application of the jurisdiction by the learned court below.

Accordingly, this revision petition is dismissed having no merit.

Interim order stands vacated.

JUDGE

Comparing Assistant