GAHC010010202017

2026:GAU-AS:17525

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

Case No. : Crl.Rev.P./8/2017

DEBEN BARUAH and ANR.
S/O. LT. HEMKANTA BARUAH, R/O. VILL. BARCHOY KHATA GOSSAIGAON, P.S. TITABAR, DIST. JORHAT, ASSAM.

2: SMTI. MAI BARUAH

W/O. LT. HEMKANTA BARUAH
R/O. VILL. BARCHOY KHATA GOSSAIGAON
P.S. TITABOR
DIST. JORHAT
ASSAM

VERSUS

BHARAT GOGOI and 2 ORS.
S/O. LT. PUNARAM GOGOI, R/O. BOR ERA GAON, TITABAR, P.O. JALUKONIBARI, P.S. TITABAR, DIST. JORHAT, ASSAM.

2:DAMBARU GOGOI

S/O. LT. CHITRADHAR GOGOI
R/O. KUKURACHOWA GAON
P.O. JALUKONIBARI
P.S. TITABAR
DIST. JORHAT
ASSAM.

3:THE STATE OF ASSAM

REP. BY THE SECRETARY
GOVT. OF ASSAM
REVENUE DEPARTMENT
DISPUR
GUWAHATI-06

Advocate for the Petitioner : MR.M R Z CHOUDHURY, MR.M ALI,MR.A DAS,MR A GONI,MR.M U MAHMUD

Advocate for the Respondent : MR.M HAQUER- 1and2, PP, ASSAM,MR.K BHATTACHARJEE(R-1&2),MR.J C BARMAN(R- 1&2),MR.A ALI(R- 1&2),MR.D BANERJEE(R- 1&2)

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 26-11-2026

Heard Mr. M U Mahmud, the counsel for the petitioners. Also heard Mr. K Bhattacharjee, the learned counsel appearing for the respondent nos. 1 & 2.

2. Further from the record it reveals that in view of order passed in I.A.(Crl.) 857/2026 the prayer for amendment of Cause Title of criminal petition was allowed and accordingly amended Cause Title is also filed by the petitioner wherein the State of Assam is made party represented by the Secretary, Govt. of Assam, Revenue Department, Dispur, Guwahati. However, no one has represented respondent no. 3 today.

3. This is an application u/s 397/401 Cr.PC read with Article 227 of the Constitution of India challenging the impugned order dated 30.09.2016 passed by learned Circle Officer (A), Titabor Revenue Circle-cum-Executive Magistrate, Titabar in Misc. Case No. 130/1998 u/s 145 Cr.PC whereby the Officer In-Charge, Titabor police station was directed to make free disputed land from all bindings and further directed to handover the disputed land to the second party/respondent without fail.

4. It is submitted by Mr. Mahmud during the pendency of this case the

members of the petitioners side as well as the respondents side have died but no party has approached this Court for inserting the names of the legal heirs of the deceased petitioners/respondents. He further submitted that the attachment order was passed by the Circle Officer u/s 146(1) ex-parte till declaration of possession after receiving the police report. The said order was passed ex-parte only on the basis of police report dated 21.06.1998 wherein without making proper enquiry it was stated in the Report that the opposite-party/respondent was in possession of the land and the learned Executive Magistrate also without giving any opportunity of hearing and only on the basis of the police report had passed the order of attachment on 27.07.1998. Thereafter on 30.09.2016 the order of attachment was removed and the possession was declared in favour of second party/respondent and the police was also directed to handover the possession to the second party/respondent. But, it is during the deliberation, it is submitted by Mr. Mamud that though the record was called for but, as per Repot submitted by the concerned Circle Office, the record is missing and that apart the parties from both the members of the petitioners and the respondents side also died during the pendency of this case.

5. In that context Mr. Bhattacharje, the learned counsel appearing for the respondents submitted that the respondents are still in possession of the land. However, the actual possession of the land could not be decided under such proceeding and at present there is no attachment order and the respondents are still possessing the land. He further submitted that the attachment order was passed long back in the year 1998 and hence there is no validity of such attachment order as on today. More so as per order dated 30.09.2026, the attachment order has already been removed by the Circle Officer.

6. In that context, it is submitted by Mr. Mahmud that a status quo order may be passed directing both the parties to maintain status-quo over the disputed land till the party approach the civil forum for proper relief.

7. Hearing the submissions made by learned counsels for both sides and considering all circumstances of this case including the missing of records as well as the death of the parties concerned, it is seen that the possession over the disputed land is still questionable. However, from the order dated 30.09.2016 it is seen that the possession was handed over to the second party/respondent. But at this stage this Court is not in a position to take any decision as to the possession of the land as on today. Further, if there is any dispute in regards possession and right title over the disputed land, the party may approach the appropriate forum for proper/adequate relief. But, in the present case there cannot be any order for maintenance of status-quo for indefinite period till the parties approach any civil forum. In view of this and considering the entire facts and circumstances of this case, this Court is of the opinion that keeping the case pending further would not be justified rather it would be proper for both the parties to approach the Civil Court for proper relief/redressal.

8. With the above observations without going much detail into the merit of the case, the petition is disposed of.

9. Further the parties are at liberty to approach the civil forum, if so advised.

JUDGE

Comparing Assistant