

:: IN THE COURT OF THE SESSION JUDGE, NALBARI ::

Present: Smti S. Bhuyan.
Session Judge,
Nalbari.

(Criminal Revision Case No. 39/18)

**Revision against the order dated 04/08/2018 passed by
Learned ADM, Nalbari in connection with Misc Case No.
75^m/2018 u/s-144 of CrPC.**

Sri Baroda Choudhury

S/o- Lt. Murari Mohan Choudhury
R/o- Bidyapur, Nalbari Town, Ward No.3
Mouza- Khata
P.S.- Nalbari
Dist - Nalbari, Assam.....Petitioner

-versus-

1) Shri Hemanta Barman

S/O- Shri Jogen Kalita
R/o- Bidyapur, Nalbari Town, Ward No.3
Mouza- Khata
P.S.- Nalbari
Dist - Nalbari, Assam

2) Shri Diganta Barman

S/o- Shri Satish Barman

3) Shri Satyen Barman

S/o- Shri Ratia Katia Barman
Both are resident of Vill- Malikuchi
Mouza- Khata
P.S.- Nalbari
Dist - Nalbari, Assam..... Opp. Party

Date of Judgment :- 23/06/2020

JUDGMENT

1. This petition u/s-397/399 of CrPC is filed by Sri Baroda Choudhury son of Lt. Murari Mohan Choudhury with a prayer to set aside and quash the order dated 04/08/2018 passed by the Learned ADM Nalbari, in connection with Misc Case No. 75^m/2018 u/s-144 of CrPC by which Learned ADM dropped the proceeding based on the petition of second party.

2. The fact leading to this revision petition is that the case of the first party/ revisionist petitioner Baroda Choudhury is that he is the owner and title holder of the disputed land which is measuring 2 katha out of 5 bigha 5 lecha covered by dag no. 356/357 patta no. 28 bounded by North- Harekrishna and others, South- College road, East- Ratiya Katiya and West- seller which she purchased by executing registered sale deed in the year 1979 and since then he has been possessing by constructing houses and second party are occupying someones land on his east boundary and on the said east boundary first party erected tin fencing and took the water connection and on the said east boundary on 14/07/2018 when first party was present at Guwahati with his family for the treatment, second party removed tin fencing and destroyed water pipe and tank and started constructing brick wall. At that time first party came from Guwahati, restrain second party but second party rebuke him using obscene word and threaten his life. Thereafter, he lodge an ejahar, police came to the place of occurrence but second party ran away from their house and on next day second party again started constructing permanent wall at the same place and when first party informed police orally, police advised her to bring order from the court. Hence, she filed petition for initiating proceeding u/s 144 CrPC.

3. The Learned ADM Nalbari, who on being satisfied, drawn up a proceeding u/s 144 CrPC, issued notice to the parties to appear before the learned ADM, attached the disputed land and called for

the written statement from the other side and fixed the case on 10/08/2018 for the written statement.

4. Hemanta Barman the opposite party on 04/08/2018 filed a petition before the learned ADM and learned ADM passed impugned order and dropped the proceeding u/s 144 CrPC and against which the first party being highly aggrieved and dissatisfied filed this revision.

5. I have scrutinized the material on record. On perusal of the record it is seen that petitioner filed a petition on 17/07/2018 for drawing up a proceeding u/s 144 CrPC. On that day Learned ADM Nalbari, took up the petition and drawn up the proceeding u/s 144 CrPC and prohibited second party from entering into the disputed land and fix 10/08/2018 for the written statement and second party asked to submit his written statement and 2nd party filed a petition on off date when case was not fixed and learned ADM took up the case and passed the impugned order dated 04/08/2018 without furnishing copy of the petition to 1st party and without hearing the first party and thereby passed the impugned order by complete violation of natural justice and disposed of the case and that being so, the order passed by the Learned ADM dated 04/08/2018 is against the due process of law and same is accordingly set aside. The case is remand back for fresh trial and with a direction told trial court to dispose of the petition filed by the 1st party in accordance with law after giving opportunity of being heard to both side. Both the parties are directed to appear before the learned trial court within 30 days from the date of order of this court and the Learned ADM will dispose off the Misc Case No. 75M/2018 u/s-144 of CrPC within time frame under statue.

6. In the light of the above direction, revision allowed. However, no cost to the parties.

7. Send down the LCR with a copy of this court judgment to the learned trial court immediately.

Judgment delivered under hand and seal of this court on this 23rd day of June, 2020 at Nalbari, District-Nalbari.

(Smti S. Bhuyan)
Session Judge, Nalbari.

Dictated & corrected by me

(Smti S. Bhuyan)
Session Judge, Nalbari.

Typed by:
Anzima Brahma
Stenographer Gr. III