

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

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

(Criminal Revision Case No. 46/18)

**Revision against the order dated 06/09/2018 passed by learned
ADM, in connection with Case No. 90^M/18 u/s 144/133 CrPC.**

1) Sukumar Das

S/o- Late Durga Prasad Das
R/o- N.T Road, Ward No. 6, Nalbari Town
Mouza- Khata
P.S.- Nalbari
Dist - Nalbari, Assam

2) Chandana Das

3) Dipali Das

Both are D/o Lt. Durga Prasad Das
R/o- Nalbari Town, Ward No. 6,
Mouza- Khata
P.S.- Nalbari
Dist - Nalbari, AssamRevisionist

versus

Karabi Talukdar

W/O- Lt. Mantu Prasad Das
R/O- Nalbari, Satra
P.S- Nalbari P.O. Nalbari
District - Nalbari.....Respondent

Judgment delivered :- 16/06/2020

JUDGMENT

1. This revision petition has been filed by Sukumar Das, Chandana Das and Dipali Das u/s 397/399 CrPC being highly aggrieved and

dissatisfied with the order of then Learned ADM, Nalbari dated 06/09/2018 under C.R. Case No. 90^M/2018 u/s 144/133 CrPC.

2. The fact leading to this revision petition is that respondent of this revision petition namely Karabi Talukdar Das wife of Lt. Mantu Prasad Das filed a petition u/s 144/145/146(1)/133 CrPC against the present revisionist Sukumar Das, Chandana Das and Dipali Das before the Learned District Magistrate, Nalbari citing that both the parties are successor of Lt. Durga das and Durga Das was the original owner of the land of disputed patta 191 dag no. 1193, 1198, 1204, 1205 which is measuring 2 katha 5 lecha and in the same patta under dag no. 1206 and 1207, there is total 1 bigha 1 katha 2 lecha of land standing in the name of original owner Lt. Durga Prasad Das and total land of Durga Prasad is measuring in the disputed patta is 1 bigha 3 katha 7 lecha. After death of Lt. Durga Prasad Das his legal heir mutually partitioned their land and disputed land mentioned in the schedule of the petition i.e. disputed property standing on the disputed land is the share of the property of Lt. Mantu Prasad Das son of Lt. Durga Prasad Das, the husband of first party and Lt. Mantu Prasad Das during his life time, is possessing the disputed land mentioned in the disputed patta no. 191 dag no. 1193, 1198, 1204, 1205. In this land there is two room measuring 20ft x 16ft and 15ft x 16ft and one shop measuring 10ft x 16ft in the front side near road, which is bounded by north N.T. Road East Abhiruchi, South land of second party and west common path of 1st and 2nd party. The further plea made by first party Karabi Talukdar is that when they are running stationery shop in the disputed land and second party to dispose them from the disputed property subjected with mental torture as a result they shifted to Gosaipara, Nalbari locking the disputed room and at that time husband of first party was suffering from severe diseases including diabetes. On 01/06/2018 husband of first party died leaving first party and their three minor children. On 17/07/2018 first party came to the disputed room, unlock the room and while cleaning the room second party restrain them, did not allow them to use common tube-well and toilet and electricity connection and close the common path and giving

threatening, for which, first party filed the petition u/s 144/133 CrPC before the Learned District Magistrate on 27/07/2018 to pass prohibitory order against the second party (the revisionist).

3. On 27/07/2018 Learned ADM called for report from OC Nalbari PS. Getting the report from OC Nalbari PS Learned ADM took up the proceeding, took cognizance and passed order of prohibiting entry of the second party in the disputed land u/s 144 CrPC direct second party u/s 133 CrPC not to obstruct first party for using the common path measuring 4ft breadth on the western side of the disputed property, issued notice, called for written statement from the second party and against this order of taking cognizance, restraining second party for obstructing second party for using the common road and prohibiting the second party from entry into the disputed property dated 06/09/2018, the 2nd part, the present revisionist preferred this revision.

4. I have scrutinized the record of the trial court. On scrutiny of the impugned order dated 06/09/2018 I find that Learned ADM has called for the written statement from the second party which mean that second party has given chance, scope to place their case before the learned trial court and second party on 10/09/2018 filed a petition before the learned ADM disputing right of the first party in respect of the disputed property and case was fixed for hearing on the said petition. This revision petition is filed against interlocutory order not against final order. Learned trial court has given scope to the party to place their case. There is nothing to interfere with the order of the learned trial court and order dated 06/09/2018 passed by learned trial court is upheld and I hold that this revision petition is devoid of any merits and is accordingly dismissed with direction to the parties to appear before the learned trial court from 30 days from the date of judgment and order of this court and learned trial court on appearance of the parties shall disposes of the case in accordance with law.

14. 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 16th 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