

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR,
TRIPURA, MIZORAM AND ARUNACHAL PRADESH)

ITANAGAR BENCH

Crl. Revn. P. 03(AP)2010

Smt. Kapi Tali
D/o Late Mika Tali
Resident of Polo Colony
P.O. & P.S. : Naharlagun
District : Papum Pare, Arunachal Pradesh.

..... *Petitioner*

- *Versus* -

1. Extra Assistant Commissioner, Papum Pare District, Naharlagun (A.P.)
2. Shri Joram Anu (Lecturer), S/o Late Joram Son, resident of Polo Colony
P.O. & P.S. : Naharlagun, District : Papum Pare, (A.P.).

..... *Respondents*

Advocates for the petitioner :- Mr. D. Boje

Advocate for respondent no. 1 :- Mr. I. Basar, P.P., A.P.

Advocate for respondent no. 2 :- Mr. B. Tapa

P R E S E N T
THE HON'BLE MR. JUSTICE P. K. MUSAHARY

Date of hearing :- 13.05.2010
Date of Judgment & order :- 13.05.2010

JUDGMENT AND ORDER(ORAL)

Heard Mr. D. Boje, learned counsel for the petitioner/
opposite party. Also heard Mr. I. Basar, learned Public Prosecutor for
the respondent no. 1(State of Arunachal Pradesh) and Mr. B. Tapa,
learned counsel for private respondent no. 2/complainant.

2. The challenge made in this criminal revision petition, is against the order dated 28.04.2009 passed by the learned Extra Assistant Commissioner, Papum Pare District, Naharlagun, in Case No. NLG/JUD/LOC-003/2009/17, whereby the possession of land, in dispute, has been declared in favour of private respondent no. 2/complainant. The private respondent no. 2, Sri Joram Anu, made a request vide his letter dated 09.01.2009 addressed to the learned Extra Assistant Commissioner, Naharlagun Circle, Naharlagun, Papum Pare District, to serve an eviction notice on the present petitioner/opposite party who has been forcefully occupying the plot of land allotted to him(complainant) by the State Government. On receipt of the said letter/complaint, summons dated 12.01.2009 and 23.01.2009 were issued on the present petitioner/opposite party asking him to appear before the Extra Assistant Commissioner, Naharlagun. Accordingly, the present petitioner appeared on 12.01.2009 and filed an application before the Extra Assistant Commissioner, Naharlagun, requesting him for initiation of a proceeding under Section 145 of the Code of Criminal Procedure, 1973, inasmuch as the local *Keba/Mel* has no jurisdiction to decide dispute pertaining to Government land. In respect of such request, the learned Extra Assistant Commissioner, Naharlagun, neither passed any order initiating proceeding under Section 145 of the Code of Criminal Procedure, 1973 nor did he ask the parties asked to produce any witness in support of their cases. However, the said Extra Assistant Commissioner, without examining any witness in the aforesaid case, passed the impugned order dated 28.04.2009 declaring the possession of the land in dispute in favour of Sri Joram Anu, private respondent no. 2/complainant.

3. The said impugned order has been passed contrary to the factual position which has been revealed from the letter/complaint itself, wherein Sri Joram Anu, the private respondent no.

M.

2/complainant admitted that the land, in dispute, is in the possession of the present petitioner/opposite party and he(complainant) himself wanted the present petitioner to be evicted from the said plot of land. Moreover, there is no dispute with regard to possession over the said plot of land inasmuch as the present petitioner/opposite party is still in physical possession of the same and yet the declaration as regards possession over the land in dispute, has been made without any evidence, in favour of the private respondent no. 2/complainant.

4. In view of the above factual position, the impugned order dated 28.04.2009 is liable to be quashed and set aside. Accordingly, the same is quashed and set aside.

5. From the perusal of the connected lower court records, it is found that the complainant/private respondent no. 2, is in possession of a Land Passbook issued by the competent authority with regard to allotment of the said disputed plot of land and he has, prima facie, got title over the said plot of land and as such, he is left with liberty to approach the competent authority/court, for appropriate relief.

6. Similarly, the present petitioner/opposite party is found to be in physical possession of the disputed land for a long period of time and the same being not disputed by the respondent State as well as the private respondent no. 2/complainant, she may approach the appropriate authority/court, for cancellation of the Land Passbook issued in favour of private respondent no. 2/complainant.

7. With the above observations and directions, this criminal revision petition stands disposed of. However, there shall be no order as to costs.



8. LCRs be remitted back forthwith to the court below concerned.

for
JUDGE

Bikash