

IN THE COURT OF THE SESSIONS JUDGE :::::::::: DHUBRI

C.R. Case No. 29 (2)/ 2012

Petitioners : Joynal Abedin Bepari

- Vs -

Opp. Party : Gias Uddin Sk. & 5 (five) others

Present : Sri A. Bhattacharyya, AJS
Sessions Judge, Dhubri

Sri Amirul Islam, Advocate for the petitioners.
Sri Giasuddin Ahmed Advocate for the O.P.

Date of Hearing : 05-01-2013

Date of Judgment : 05-01-2013

J U D G M E N T

The order dated 29-05-2012 passed in the Misc. Case NO.176/2003 by the learned ADM, Dhubri is revised in the instant revision U/s.397 Cr.P.C.

2. Being aggrieved and dissatisfied with the aforesaid impugned order, revisionist Joynal Abedin Bepari, assailed the impugned order on a numbers of grounds, which are narrated in the memo of revision.

3. During hearing L.C.R. is called for also learned counsel of the parties are heard.

4. I have carefully considered the submissions advanced during hearing in the light of the L.C.R and the impugned order. For the sake of convenience and to appreciate the matter in dispute, the impugned order is narrated herein below:

29-05-2012

Perused the petition filed by Jamur Ali and others of 2nd party praying for execution of the order passed on 30-01-2012 jointly by police and Land Revenue staff of Agomoni Rev. Circle.

Asstt. Settlement officer, Agomoni Circle is directed to depute L.R. Staff on 11-06-2012.

O.C. Golakganj P.S. is to comply.

Addl. Dist. Magistrate
Dhubri

5. During hearing it is revealed that the parties to the case had battled in the Misc. case No.176/2003 before the learned trying Magistrate. This was a case initiated on an application preferred U/s.145/146 Cr.P.C. The final order in the aforesaid Misc. case was passed on 30-01-2012, whereby possession of the land in dispute was declared in favour of the persons/ members of 2nd party. Thereafter, the 2nd party preferred an application, whereby it was prayed for the execution of the order passed on 30-01-2012 jointly by the police and the Land Revenue staff of Agomoni Revenue Circle on the aforesaid application. Learned trying Magistrate was pleased to direct the Assistant Settlement Officer, Agomoni Circle to depute L.R. Staff on 11-06-2012. Thus the occasion of the filing of this revision.

6. During hearing it is vehemently argued that the learned trying Magistrate had no jurisdiction to pass the impugned order for the execution of the final order. As such the same is illegal and liable to be set aside.

7. On a minute consideration of the rival submission of the learned counsels of the parties, it appears that the final order dated 30-01-2012 was passed by the learned trying Magistrate declaring possession of the disputed land in favour of the 2nd party. Further, the learned trying Magistrate was pleased to inform the O/c. Golakganj Police Station for necessary action and also the **O/c. was** directed to execute

the order. In the final order there is no mention about the restoration of the possession. This apart, there is no provision made in the Sec. 145 Cr.P.C. for the execution of the order passed there under.

8. For the aforesaid reason, it is felt that the impugned order is passed without jurisdiction, hence, the same is illegal. Thus the revision is not devoid of merit. In the result the same is allowed and impugned order is set aside. The revision is allowed on contest and without cost. Let a copy of the order be sent along with the L.C.R.

Given under my hand and seal of the Court on this 5th day of January, 2012.

Dictated & Corrected by me

Sessions Judge, Dhubri

Sessions Judge, Dhubri