



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

CIVIL REVISION PETITION (IO) No.186 of 2024

- 1.** Sri Ram Krishna Dutta
- 2.** Sri Ranjit Kumar Dutta
- 3.** Sri Ramesh Dutta

All sons of Late Arun Chandra
Dutta,
R/O Vill- Niz Moidumia Gaon,
Airport Road, P.O.- Mohanbari,
P.S.- Lahoal, Dist- Dibrugarh.

.....Petitioners

-Versus-

Bimal Phukan @ Bipin Bharali,
S/O- Sri Pranab Phukan,
R/O- Vill- Niz Moidumia Gaon,
Airport Road, P.O. Mohanbari,
P.S. Lahoal, Dist- Dibrugarh,
PIN- 786012.

.....Respondent

- B E F O R E -

HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

For the Petitioner(s) :Mr. S. Dutta, Advocate.

For the Respondent(s) :Mr. S. Khound, Advocate.

Date of Hearing : 16.03.2026.

Date of Judgment : **16.03.2026.**

JUDGMENT & ORDER (ORAL)

Heard Mr. S. Dutta, learned counsel appearing for the petitioners. Also heard Mr. S. Khound, learned counsel appearing for the sole respondent.

2. By way of the present civil revision petition under Article 227 of the Constitution of India, the petitioners have challenged the order dated 09.01.2024 passed by the learned Additional Sessions Judge, Dibrugarh, acting as the Land Grabbing Tribunal, in Misc. Land Grabbing Case No. 4/2017. By the impugned order, the learned Court below, upon being satisfied that the petitioners/respondents had grabbed the land belonging to the respondent/petitioner within the meaning of Sections 2(d) and 2(e) of the Assam Land Grabbing (Prohibition) Act, 2010 (hereinafter referred to as "the Act of 2010"), proceeded to take cognizance of the criminal offence under Section 3(1) of the Assam Land Grabbing (Prohibition) Rules, 2013 against the petitioners.

3. Mr. S. Dutta, learned counsel appearing for the petitioners, submits that the learned Land Grabbing Tribunal committed a jurisdictional error in taking cognizance of the alleged criminal offence without first determining the civil liability of the parties. According to learned counsel, the scheme of the Act of 2010 requires the Tribunal to first determine the question of title, ownership, or lawful possession of the land in question by following the procedure prescribed under the Code of Civil Procedure, and only thereafter proceed with criminal prosecution in accordance with the Code of Criminal Procedure.

4. It is contended that until the civil liability of the parties is determined in accordance with law, criminal cognizance under the Act of 2010 cannot be taken. In support of the aforesaid contention, reliance has been placed upon the decision of this Court in ***Anarul Hoque alias Anar Hussain vs. Sadir Ali***, rendered in **CRP No. 74/2018**.

5. *Per contra*, Mr. S. Khound, learned counsel appearing for the sole respondent, submits that the petitioners had filed their written objection before the Land Grabbing Tribunal on 06.03.2018; however, in the said objection, they did not assert any proprietary right, ownership right, or possessory right over the land in question.

6. Learned counsel further submits that the Land Grabbing Tribunal had already considered the question of civil liability and, by order dated 30.11.2019, was satisfied

that the petitioners had grabbed the land within the meaning of the Act of 2010. In such circumstances, the subsequent cognizance of the criminal offence cannot be faulted.

7. In support of his submissions, reliance has been placed upon the judgment of the Division Bench of this Court in ***State of Assam, In re***, reported in ***(2018) 2 GLR 313***, wherein the procedure to be followed by the Land Grabbing Tribunal under the Act of 2010 has been elaborately discussed.

8. Learned counsel has also relied upon the judgment of the Hon'ble Apex Court in ***Estralla Rubber vs. Dass Estate (P) Ltd.***, reported in ***(2001) 8 SCC 97***, to contend that the supervisory jurisdiction of the High Court under Article 227 is limited in scope and is intended only to ensure that subordinate courts act within the bounds of their authority. It is argued that the High Court does not exercise appellate jurisdiction under Article 227 and, therefore, should not interfere unless there is patent illegality or manifest miscarriage of justice.

9. I have considered the submissions advanced by the learned counsel for the parties and have carefully examined the materials available on record.

10. Section 2(d) of the Act of 2010 defines a "land grabber" as a person who occupies or attempts to occupy land without ownership, title, or lawful possession, whether by force, intimidation, deceit, or otherwise.

11. Section 2(e) defines “land grabbing” to mean every activity by which a land grabber occupies or attempts to occupy land without lawful entitlement with a view to illegally take possession or to create unlawful tenancies, leases, or unauthorized structures.

12. Section 7 of the Act provides for the constitution of a Special Tribunal for inquiry into alleged acts of land grabbing and for determination of questions relating to ownership, title, or lawful possession of the land alleged to have been grabbed.

13. Under Section 8, the Special Tribunal is vested with the power to take cognizance of cases involving alleged land grabbing and to try such cases. The Tribunal is empowered not only to determine civil liability relating to title or possession but also to try criminal offences arising out of such acts.

14. The procedure to be followed by the Special Tribunal is prescribed under Section 10 of the Act. Sub-section (1) mandates that the Tribunal shall follow the procedure of the Code of Civil Procedure while determining questions of civil liability and the procedure of the Code of Criminal Procedure while trying offences under the Act. The provision thus embodies a dual procedural framework enabling the Tribunal to exercise both civil and criminal jurisdiction within the same proceeding.

15. Sub-section (2) of Section 10 stipulates that after taking cognizance, the Tribunal shall first decide the

question of civil liability relating to title, ownership, or possession and thereafter proceed with criminal prosecution if land grabbing is established. However, this requirement cannot be read as an inflexible or universal mandate. The provision must be construed in the context of the overall scheme of the Act, particularly Sections 8 and 11, to mean that such prior determination becomes necessary only when a bona fide dispute as to title or lawful possession is raised by the accused.

16. Section 11 further provides that in a proceeding relating to land grabbing, there is a statutory presumption that the accused is a land grabber, and the burden of proving otherwise rests upon the accused.

17. The Division Bench of this Court in ***State of Assam, In re (supra)*** has clarified the procedure under the Act of 2010. It was held that the principal object of the Act is to prohibit and punish land grabbing, which has assumed alarming proportions in the State.

18. The Division Bench further held that determination of civil liability is not required in every case as a matter of course and becomes necessary only when the accused raises a defence claiming proprietary right, ownership, or lawful possession over the land in question.

19. However, where no such defence is raised by the alleged land grabber, the Special Tribunal is not obliged to undertake a detailed adjudication of civil liability.

20. The relevant paragraph of the aforesaid judgment reads as under:

“23.2. Regarding the second part of question No. (iv), we have already elaborately discussed above that the core object of the 2010 Act is to prohibit and punish land grabbing. The 2010 Act is a special legislation dealing with a special problem which has assumed endemic proportions. It seeks to ensure dispensation of speedy justice to the victims of land grabbing by evolving a special procedure. In the course of enquiry and trial by the Special Tribunal regarding the offence of land grabbing, if the alleged land grabber puts up a defence of proprietary right or ownership or possessory right over the land in question, then only the Special Tribunal shall embark upon a summary adjudication of the civil liability first. Adjudication of civil liability, once cognizance of the offence of land grabbing is taken, is not automatic...”

21. In the present case, it is evident from the records that although the petitioners filed their written objection before the Land Grabbing Tribunal, they did not raise any specific or bona fide plea asserting proprietary right, ownership, or lawful possession over the land in dispute.

22. In such circumstances, the requirement under Section 10(2) for prior determination of civil liability does not stand attracted. The statutory scheme does not mandate a mechanical determination of civil liability in every case; rather, such adjudication becomes necessary only where a credible civil dispute is raised by the accused.

23. In the absence of any such plea, the learned Land Grabbing Tribunal was fully justified in proceeding with the criminal aspect of the matter without embarking upon a separate exercise of civil adjudication. Any insistence on a

detailed determination of civil liability in such a situation would defeat the object of the Act of 2010.

24. The records further reveal that the learned Land Grabbing Tribunal, by order dated 30.11.2019, was satisfied that the petitioners had grabbed the land within the meaning of Sections 2(d) and 2(e) of the Act of 2010 and accordingly took cognizance of the offence.

25. Thereafter, the petitioners filed Petition No. 1201/2021 seeking to keep the criminal proceedings in abeyance and to decide the civil liability first. The said petition was rejected by order dated 25.07.2023, observing that the stage for determination of civil liability had already passed.

26. Significantly, the petitioners did not challenge either the order dated 30.11.2019 or the order dated 25.07.2023 before any appropriate forum. The present challenge, therefore, is clearly an attempt to reopen issues that had already attained finality.

27. Subsequently, by order dated 09.01.2024, the learned Land Grabbing Tribunal proceeded to frame charges against the petitioners, which has now been assailed in the present revision petition.

28. The supervisory jurisdiction of this Court under Article 227 of the Constitution of India is limited in scope. As held by the Apex Court in ***Estralla Rubber vs. Dass Estate (P) Ltd. (supra)***, the High Court does not act as a court of appeal and interference is warranted only in cases

of patent perversity, jurisdictional error, or manifest miscarriage of justice.

29. In the present case, no such jurisdictional error or perversity has been demonstrated. On the contrary, the approach adopted by the learned Land Grabbing Tribunal is consistent with the statutory scheme and the law laid down by the Division Bench of this Court.

30. The conduct of the petitioners in not challenging the earlier orders and in seeking to raise the same issue at a belated stage further reinforces the conclusion that the present petition has been instituted as an afterthought to delay the proceedings and avoid the consequences of the criminal trial.

31. Having regard to the statutory framework, the binding precedent, and the factual matrix, this Court finds no illegality, irregularity, or jurisdictional error in the impugned order dated 09.01.2024.

32. Consequently, the civil revision petition stands dismissed

JUDGE

Comparing Assistant