

(1990) 08 GAU CK 0025
In the Gauhati High Court
Case No : Criminal Revision No. 280 of 1990

Lakhiprabha Das	Vs	APPELLANT
Ratan Hazarika @ Tapan Hazarika		RESPONDENT

Date of Decision : 06-08-1990

Acts Referred:

Criminal Procedure Code, 1973 — Section 144
Criminal Procedure Code, 1973 (CrPC) — Section 144

Citation : (1990) 2 GLJ 218

Hon'ble Judges : S.Haque, J

Bench : Single Bench

Advocate : D.N.Barua, D.C.Sharma, A.Bhattacharyya, Advocates appearing for Parties

Judgement

Heard learned senior counsel Mr. D. N. Baruah on behalf of the petitioner first party Smti Lakhiprabha Das. Perused the impugned order dated 4.5.1990 passed by the Additional District Magistrate, Sibsagar in Misc. Case No. 38/1990 under section 144 Cr. P.C. In view of the nature of the order, notice on the opposite party is considered not necessary and the matter is taken up for disposal with the following orders :

The Additional District Magistrate, Sibsagar vide order dated 4. 5. 90 under section M4 Cr. P. C. in Misc. Case No. 38/1990 inter alia declared the possession of the second party over the disputed land. Such an order as to the possession of the second party over the disputed land was inappropriate and without jurisdiction. Such an observation/order cannot be incorporated in 144 order as it would prejudice and affect the right of the parties in future litigation for title and possession (Relied the decision in 1972 CrL J. 1655). The prime object and scope of section 144 is to prevent action likely to cause imminent danger to human life, health or safety or disturbance to public tranquility or a right, but it does not extend jurisdiction on the Magistrate to pass an order within the purview of section 144 to declare the possession without such proceeding being

converted to a proceeding under section 145. Declaration of possession in favour of a party by an order under section 144 is illegal and without jurisdiction. Hence, that portion of the impugned order declaring possession of the second party is liable to be quashed.

Accordingly, the order that the second party was in possession of the disputed land is hereby quashed.

This revision petition is disposed of with the above order.

Inform all concerned.