

HIGH COURT OF TRIPURA
AGARTALA
RSA 9/2023

Smt. Marani Bala Das and ors. Appellant(s)
Vs.
Legal heirs of It. Resad Miah, Smt. Hashuni Bibi and ors.
... Respondent(s)

For Appellant(s)	:	Mr. SM Chakraborty, Sr. Advocate Ms. A. Pal, Advocate
For Respondent(s)	:	None

HON'BLE MR. JUSTICE ARINDAM LODH
Order

10/05/2023

Heard Mr. SM Chakraborty, learned senior counsel assisted by Ms. A. Pal, learned counsel for the appellants.

This second appeal is directed against the judgment and decree dated 24.01.2023 passed by the learned District Judge, Gomati, Tripura, Udaipur in Title Appeal 02 of 2020 affirming the judgment dated 21.11.2019 passed by the learned Civil Judge, Junior Division, Udaipur, Gomati, Tripura, in T.S. 02 of 2012.

Both the courts below held that the plaintiff-respondents are entitled to get recovery of possession by evicting the defendants who are the permissive possessors.

Learned senior counsel has tried to persuade this court that the defendants entered into possession at the instance of Kudduch Miah in the year 1980. The plaintiffs have specifically asserted in the plaint and in the evidence that they were the owners of a land measuring 2.82 acres. In the year 1980, Kudduch Miah approached them to permit him to possess some portion of land measuring 0.07 acres. The plaintiffs permitted Kudduch Miah to possess the said portion of land. Thereafter, Kudduch Miah had sold some portion of the land to the defendants by way of unregistered Sale Deed.

It is the contention of the appellants that though the land was earlier recorded in the name of the plaintiffs, but during pendency of the civil suit that Record of Right i.e. Khatian has been corrected by the Collector in a proceeding under Section 95 of the TLR & LR Act.

It is the case of the defendant-appellants herein that since the Collector has held that the suit land had wrongly been recorded earlier in the name of the plaintiffs, but it is Kudduch Miah who has really been possessing the land. So, the name of Kudduch Miah has been entered into the khatian.

On the aforesaid backgrounds, both the courts below held that the plaintiffs have been able to prove their ownership over the suit land and the defendants have no title because Khatian does not confer any title.

I do not find any error of law or facts committed by the learned courts below for the simple reason that khatian does not confer any title upon anyone. Since ownership of the plaintiffs over the suit land is not in dispute, they are entitled to declaration or right, title and interest and also recovery of khas possession of the suit land. Kudduch Miah was permissive possessor. As such, the possession of the defendants are also permissive and is liable to be evicted at the instance of the owner, if they do not hand over the vacant possession of the land on demand of such owner. Creation of khatian in favour of Kudduch Miah, in the instant case would not in any way frustrate the claim of the real owner to evict the permissive possessor.

Accordingly, I find no substantial question of law to admit this appeal.

Consequently, this appeal stands dismissed at this stage.

Pending application(s), if any, also stands dismissed.

JUDGE