

**HIGH COURT OF TRIPURA
AGARTALA
CRP NO.88 OF 2022**

1. **Sri Pradip Chowdhury, 53 years,**
S/o Lt. Radha Govinda Chowdhury.
2. **Sri Prabir Chowdhury, 41 years,**
S/o. Lt. Radha Govinda Chowdhury.
3. **Smt. Minati Chowdhury(Nandi), 45 years,**
D/o. Lt. Radha Govinda Chowdhury,
W/o- Sri Sanjib Nandi.
4. **Smt. Purnima Chowdhury, 77 years,**
W/o Lt. Radha Govinda Chowdhury

All residents of Village Ganki (Near Fire Service) Khowai, P.S.-
Khowai, District-Khowai Tripura

..... **Defendant JD Petitioner(s)**

Vs.

1. **Smt. Madhabi Chowdhury,**
W/o Lt. Paresh Ch. Das,
D/o. Lt. Radha Govinda Chowdhury,
Residents of Dwarikapur, P.S. Kalyanpur,
Khowai, District Khowai Tripura.

..... **Plaintiff D.H. Respondent(s)**

2. **Smt. Manjusree Chowdhury,**
D/o Lt. Radha Govinda Chowdhury,
W/o Sri Somesh Parashaer,
Resident of village Ganki (Near Fire Service),
Khowai, P.S. Khowai, District-Khowai, Tripura.

.....**Defendant JD Respondent(s).**

For the Petitioner(s) : Mr. D.R. Chowdhury, Advocate.
Mr. D. Debnath, Advocate.

For the Respondent(s) : None.

Date of hearing and delivery of
Judgment & Order : 18.07.2023

Whether fit for reporting : YES/NO.

HON'BLE MR JUSTICE T. AMARNATH GOUD

JUDGMENT AND ORDER(ORAL)

This is an application filed under Article 227 of the Constitution of India for quashing and setting aside the order dated 03.09.2022 passed by the learned Civil Judge, Jr. Division Court No.2, Khowai Tripura in case No.EX(T)01/2022 rejecting the petition/objection under Section 47 of CPC filed by the Defendant J.D. petitioners against the execution petition filed by the partition decree holder for the execution of the partition decree finally passed on 29.05.2017 in case No.TS(P)06/2015.

2. The brief fact of this case is that Plaintiff DH respondent Smt.Madhabi Chowdhury instituted the partition suit vide No.TS(P)06 of 2015 for partition of the joint property i.e., the suit land measuring 0.20 acres amongst the plaintiff DH respondents, the defendant JD petitioners & the defendant JD respondents being the co-shares mother, brother and sisters. The learned Trial Court passed the preliminary decree of partition of the suit land in equal shares i.e. 1/6th share each. The defendant JD petitioners challenged the preliminary decree dated 19.05.2017 in TA No.01 of 2017 and was dismissed on 14.08.2019.

3. In the case No.Civil Misc.07 of 2017, on the application for final decree, Commissioner was appointed who submitted the report after demarcation and ascertainment of the shares of the parties to the suit land measuring 0.168 acres. Being

physically found, the Commissioner provided 1/6th share each following the preliminary Decree wherein the area of land measuring 0.023 acres i.e. 1210.75 (167 ft. in length x 7.25 ft. in breadth) to each of the parties. Accordingly, the final decree was passed on 29.05.2017.

4. The plaintiff DH respondent put the Final Decree for execution/enforcement in case No.Ex(T)01/2020. The defendant JD petitioners filled application/objection under Section 47 of CPC out of which case No. Ex(T) No.01 of 2021 was registered and after hearing the parties, the learned executing Court rejected the same and dismissed the case vide No.Ex(T) No.01 of 2021.

5. Being aggrieved the defendant JD petitioners have taken approached this Court under Article 227 of the Constitution of India seeking to quash and set aside the Order dated 03.09.2022.

6. Heard Mr. D.R. Chowdhury, learned Sr. counsel assisted by Mr. D. Debnath, learned counsel appearing for the petitioner vehemently argued in favour of his client and urged this Court to set aside and quash the impugned Judgment dated 03.09.2022. Learned Sr. counsel urged this Court to pass an order to appoint Survey Commissioner to ascertain the share of the parties in the way that all the parties can utilize their shares. None appears for the respondents.

7. Heard learned counsel appearing for the parties and perused the evidence on record. The learned Court below while passing the impugned order has given enough reasoning and as such this Court is of the opinion that the impugned order dated 03.09.2022 is just and proper and needs no further interference.

8. With the above observation and direction, this present revision petition stands dismissed. As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE



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SUHANJIT SINGHA
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