

**HIGH COURT OF TRIPURA
AGARTALA**

RSA No.27 of 2023

For Appellant (s)	:	Mr. P. Roy Barman, Sr. Adv. Ms. A. Debbarma, Adv.
For Respondent(s)	:	Mr. Somik Deb, Sr. Adv. Ms. R. Chakraborty, Adv.

HON'BLE MR. JUSTICE S.D PURKAYASTHA

Order

16.01.2024

Heard Mr. P. Roy Barman, learned senior counsel assisted by Ms. A. Debbarma, learned counsel appearing for the appellant as well as Mr. Somik Deb, learned senior counsel assisted by Ms. R. Chakraborty, learned counsel appearing for the respondent.

The source of the title of the suit land as claimed by the appellants is that their predecessor namely, Arab Miah and Julmat Miah were the Korfadar under the Rayat Abijur Rahaman in respect of the suit land and accordingly, ROR was also created in their names as *Korfadar*. Thereafter, as alleged by the appellants, the term *Korfadar* was abolished from TLR & LR Act and both said Arab Miah and Julmat Miah became *Rayat* in the suit land and thereafter in revisional survey settlement operation, the ROR was created in their names showing their status as *Rayat* in the suit land. Another allegation of the appellants was brought to the effect that the respondent suddenly on 10.05.2015 came to the suit land and asked the appellants to hand over possession of the suit land in his favour in pursuance of a decree passed in T.S. 10 of 1992 by the then Munsif, Udaipur in their favour. Thereafter, on scrutiny the appellants came to learn that a fraudulent decree was obtained by the respondent showing false service of notice upon said Arab Miah and Julmat Miah in that suit though at that time they were dead and thereby that decree obtained by fraud was nullity.

In that suit, the following reliefs were claimed by the appellants:

- (a) **To declare that the plaintiffs have right, title, interest over the suit land.**

- (b) To declare that the judgment and decree of T.S.No.10/1992 passed by the then Munsiff, Udaipur had obtained by the defendant by practicing fraud and misleading upon the Court against the dead persons namely Arab Miah and Julmat Miah who were not alive at that relevant time of that suit.
- (c) To declare that judgment and decree of T.S. No.10/1992 passed by the then Munsiff, Udaipur are not binding upon the plaintiffs in no way.
- (d) To declare that the judgment and decree of T.S. No.10/1992 passed by the then Munsiff, Udaipur is liable to be set aside.
- (e) For perpetual injunction restraining the defendant from giving effect with the impugned judgment and decree of T.S. No.10/1992 passed by the then Munsiff, Udaipur.
- (f) For perpetual injunction restraining the defendant and his men or agent from entering into the suit land and from disturbing with the peaceful possession of the plaintiffs over it.
- (g) For temporary injunction under Order 39 Rule 1 & 2 CPC in term of the relief ('f') above till disposal of original suit.
- (h) Cost of the suit.
- (i) Any other relief/reliefs your honour deems fit and proper be granted to plaintiffs.

Both the trial court and the first appellate court dismissed the suit holding that the appellants did not have any right, title and interest in the suit land.

During hearing, Mr. Roy Barman, learned senior counsel strongly argued that the rights of predecessor of the appellants as *Korfadar* is admitted, which is a heritable right and therefore, the appellants are entitled to protect their possession over the suit land at least by a decree of injunction.

Considered the submission.

The basic claim of the appellants in the suit is declaration of their right, title and interest in respect of the suit property and even if, for argument sake, the said judgment passed in T.S.10 of 1992 is held to be not binding upon the appellants, same being a fraudulent decree, still the basic relief of declaration of right, title and interest cannot be passed in favour of the appellants inasmuch as there is no satisfactory explanation in the plaint as to how the predecessor of the appellants being *Korfadar* suddenly became *Rayat* in the suit land. The explanation given in Para 5 of the plaint that before revisional survey and settlement operation, the term *Korfadar* was abolished in TLR & LR Act, 1960 and therefore, they became *Rayat*, is not at all convincing.

Considering thus, no substantial question of is found involved in the case to be formulated for final hearing of the case.

In view of the above, this second appeal is not admitted and accordingly, disposed of.

Send a copy of this order to the first appellate court and also to the trial court.

JUDGE



SATABDI
DUTTA

Sujay

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