

**HIGH COURT OF TRIPURA
AGARTALA
RSA No.03 of 2023**

1) Sri Bisweswar Kar Chowdhuri,
son of Late Jyotsnamoy Kar Chowdhuri

2) Sri Baneswar Kar Chowdhuri,
son of Late Jyotsnamoy Kar Chowdhuri

both of them are the resident of
Village-Sindhuk Pathar,
P.O.Manu Bazar, Pin-799143,
P.S. Manu Bazar, District-South Tripura

---- Appellant-Defendant (s)

Versus

1) Sri Shibu Ranjan Banik,
son of Late Suresh Chandra Banik,
a resident of Village-Guachand,
P.O. & P.S. Manu Bazar, District-South Tripura

----Principal Respondent/Plaintiff(s)

2) Sri Ratneswar Kar Chowdhuri,
son of Lt. Jyotsnamoy Kar Chowdhuri,
a resident of Village-Sindhuk Pathar,
P.O. & P.S. Manu Bazar, District-South Tripura

----Defendant No.3/Pro-Respondent(s)

For Appellant (s)	:	Mr. P.K. Dhar Sr. Adv. Mr. R. Debnath, Adv. Mrs. Priya Saha, Adv.
For Respondent(s)	:	Mr. T.D. Majumder, Sr. Adv. Ms. R. Debbarma, Adv.
Date of Hearing	:	20.01.2025
Date of Judgment & Order	:	29.01.2025
Whether fit for reporting	:	YES

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

This appeal is directed challenging the judgment and decree dated 24.11.2022 delivered by Learned Additional District Judge, South Tripura, Sabroom in connection with Case No.T.A.01 of 2022. By the said judgment and decree, Learned First Appellate Court has reversed the finding of the Learned Trial Court in respect of land as mentioned in Schedule-C of the plaint in

connection with Case No.T.S.08 of 2014 and the judgment was delivered by Learned Civil Judge, Senior Division, Belonia, South Tripura on 05.05.2018.

[2] Heard Mr. P.K. Dhar, Learned senior counsel assisted by Mr. R. Debnath, Learned counsel and Mrs. Priya Saha, Learned counsel appearing on behalf of the appellant-defendants and also heard Mr. T.D. Majumder, Learned senior counsel assisted by Ms. R. Debbarma, Learned counsel appearing on behalf of the respondent-plaintiff.

[3] However, before proceeding with the merit of the appeal, let us discuss about the subject matter of dispute among the rival parties for which the present appeal under Section 100 of CPC is filed before this High Court. The respondent-plaintiff filed one suit before the Court of Learned Civil Judge, Senior Division, South Tripura, Belonia seeking decree for declaration of right, title and interest over the land as mentioned in Schedule-A of the plaint along with confirmation of possession and perpetual injunction against the defendant appellants herein from entering into the suit land as mentioned in Schedule-B of the plaint and also for recovery of possession by evicting the defendants i.e. the appellants herein from the land as mentioned in Schedule-C of the plaint. The suit was numbered as T.S.08 of 2018 before the Court of Learned Civil Judge, Senior Division, South Tripura, Belonia. The case of the respondent-plaintiff was in short is that the plaintiff of the original suit purchased the suit land measuring 03 karas 14 dhurs in Sabek C/S plot No.832(P) with specific boundaries by dint of registered Sale Deed vide No.1-1355 dated 08.08.1973 from one Pranbalab Chakraborty and his adjacent plot measuring 0.05 acres from the same owner corresponding to similar old C/S plot No.832(P) by dint of another Sale Deed vide No.1-1227 dated 09.08.1974 and after purchase, possession of both the plots of land were given to the plaintiff-respondent and since then, he had been started possessing the suit land as an absolute lawful owner. In the year 1994 the defendants of the original suit i.e. the appellants herein entered into the land as mentioned in Schedule-C of the plaint as permissive possessor being allowed by the present respondent-plaintiff in order

to run their bamboo business on condition that they would return back or hand over the land as and when asked for by the respondent-plaintiffs. But surprisingly, on 25.01.2009, when the respondent-plaintiff requested the defendants i.e. the appellants herein to vacate the land for their personal necessity, the appellants refused to do the same. After that, notice was issued by the plaintiff but no action was taken by the present appellants within 15 days, rather, the appellants continued to possess the same. Hence, under the compelling circumstances, the respondent-plaintiff filed the suit before the Court as stated above. In the said suit, the present appellants as defendants contested by filing their written statement denying the assertions made by the plaintiff in the suit, rather, they took the plea that they purchased the suit land as mentioned in Schedule-C of the plaint from the respondent-plaintiff on execution of Sale Deed bearing No.1-568 in the year 1982 and another Sale Deed vide No.1-636 in the year 1984 transferring the defendant-respondent No.2 having specific boundaries of the present suit land, so, they denied to have possess the suit land as a permissive possessor. Hence, the defendants by their written statement in the original suit prayed for dismissal of the suit with costs. Upon the pleadings of the parties Learned Trial Court below framed the following issues :

- "I. Is the suit maintainable in its present form and nature ?**
- II. Is the plaintiff is entitled to get a decree for declaration of his right, title and interest over A scheduled land ?**
- III. Is the plaintiff entitled to get a decree for confirmation of possession over the B scheduled land ?**
- IV. Is the plaintiff entitled to get the decree for perpetual injunction restraining the defendants, their men and agents from entering into the B scheduled land?**
- V. Is the plaintiff entitled to get a decree for recovery of vacant possession of C scheduled land by evicting the Defendants, their men and agents removing all sorts of construction therefrom ?**
- VI. To any other relief/reliefs the parties to the suit are entitled ?**
- VII. Whether the plaintiff sold out and delivered the possession of the suit land to the defendants ?(additional issue)**
- VIII. Whether the defendants' claim for right, title and interest over the suit land against the present plaintiff is barred under estoppels and acquiescence as the claim of the defendants have been dismissed by the Civil Judge (Jr. Division) in TS 05 of 2010 ?(additional issue)."**

[4] To substantiate the issues, both the parties have adduced oral/documentary evidence on record. For the sake of convenience, I would like to refer herein below the names of the witnesses of the original plaintiffs and the defendants along with their exhibited documents as mentioned below :

"Plaintiff-Appellant's Exhibits:-

**Exbt.01-Khatian No.197 of Mouza-Manubazar.
Exbt.02-Certified copy of Deed No.1-1538.
Exbt.03-Certified copy of Deed No.1-1539.
Exbt.04-Certified copy of Deed No.1-637.
Exbt.05-Certified copy of Deed No.1-636.
Exbt.06-Certified copy of Deed No.1-568.
Exbt.07-Form No.17 under TLR & LR Act, dated 07.02.1997.
Exbt.08-Notice dated 21.07.2005 issued by the Tehashilder of Manubazar T.K.
Exbt.09-Certified copy of Demarcation report submitted Tehashilder of Manubazar T.K. dated 30.07.2005.
Exbt.10- Khatian No.77 of Mouza-Manubazar.
Exbt.11-Legal notice issued by the plaintiff along with Postal receipt and its corrigendum.
Exbt.12-Certified copy of Deed No.1-390.
Exbt.13-Original Sale Deed No.1-1355.
Exbt.14-Original Sale Deed No.1-1227.
Exbt.15-Certified copy of Sale Deed No.1-1538.
Exbt.16-Certified copy of Sale Deed No.1-1539.
Exbt.17-Trace Map of Mouza-Manubazar, Sheheet No.2(P).
Exbt.18-Certified copy of order dated 06.04.2011 along with petition in connection with Title Suit 40 of 2010.
Exbt.19-Certified copy of order dated 24.07.2013 in Title Suit No.05 of 2010.
Exbt.20-Copy of plaint in connection with Title Suit No.05 of 2010.
Exbt.21-Certified copy of Khatian Vide No.534.**

Plaintiff-Appellant's Witness :-

PW-1-Sri Shibu Ranjan Banik

Defendants-Respondents' Exhibits:-

**Exbt.A-Original Registered Deed No.1-568, dated 04.06.1982.
Exbt.B-Certified copy of original Registered Deed No.1-637, dated 09.06.1980.
Exbt.C-Original Registered Deed No.1-636, dated 20.11.1985.
Exbt.D-Certified copy of Trace Map of Mouza-Manubazar, Sheet No.2(P).
Exbt.E-Certified copy of Khatian No.392 of Mouza-Manubazar.
Exbt.F-Certified copy of Khatian No.534 of Mouza-Manubazar.
Exbt.G-Certified copy of Khatian No.197 of Mouza-Manubazar.
Exbt.H-Inquiry report dated 20.01.2017 of DW-2 before SDM, Belonia.
Exbt.H/1-Signature of DW-2 in the inquiry report dated 20.01.2017.**

Defendants-Respondents Witness:-

**DW-1-Sri Bisweswar Kar Chowdhury.
DW-2-Sri Dilip Kumar Kar."**

[5] Finally, on conclusion of trial, Learned Trial Court below by judgment dated 05.05.2018 and decree dated 18.05.2018 partly decreed the suit but the Learned Trial Court refused to grant any decree in favour of the original plaintiff in respect of recovery of land as mentioned in Schedule-C of

the plaint. Challenging that judgment, the original plaintiff as appellant preferred an appeal under Section 96 of CPC before the Court of Learned District Judge, South Tripura, Belonia and the Learned Additional Sessions Judge, South Tripura, Sabroom after consignment of record heard the contesting parties on merit in T.A.No.01 of 2022 and by the judgment dated 24.11.2022 reversed the finding of the Learned Trial Court in respect of land as mentioned in Schedule-C of the plaint upholding the rest part of the decree. For the sake of convenience, I would like to mention herein below the relevant portion of judgment and order of the Learned First Appellate Court in T.A.01 of 2022 which runs as under :

"In the result, this appeal stands allowed.

The impugned judgment and order is hereby interfered with to the extent that the decisions and decrees given by the Ld. Trial Court relating to issues Nos.(V) and (VII) are hereby set-aside.

The plaintiff-appellant shall be entitled to decree for recovery of possession of the C-scheduled land having his right, title and interest by evicting defendants-respondents, their men and agents therefrom, inasmuch plaintiff-appellant at no point of time sold out the suit land (C-schedule) to the defendants-respondents.

Having regard to the nature of appeal and attending facts and circumstances it is also hereby ordered that the parties would bear their own litigation costs.

Prepare the decree accordingly within forth-night from today.

Send back the record of the Trial Court after observing all formalities along with a copy of this judgment and decree thereof to the Trial Court (The Court of Civil Judge (Sr. Division), South Tripura, Belonia.

Make the consignment of record of the instant appeal case to the District Record Room after expiry of appeal period.

With the above observation and order the instant title appeal is hereby disposed of on contest.

Make necessary entry in the TR as well as in the CIS. "

[6] Challenging that judgment, the original defendants as appellants has preferred this appeal before this Court. When the appeal was admitted for hearing on 25.08.2023 the following substantial questions of law were framed:

"(i) In a suit for declaration of right, title and interest, in case of disputes relating to plot numbers or khatian numbers and boundary, which one will prevail over the other?

(ii) Whether the findings of the learned first appellate Court is hit by Section 95 of the Evidence Act?"

[7] At the time of hearing of argument, Mr. P.K. Dhar, Learned senior counsel appearing on behalf of the appellant-defendants first of all referring the substantial questions of law as per order dated 25.08.2023 submitted that

the Learned Trial Court below in the original suit at the time of delivery of judgment rightly declared the confirmation of possession of the plaintiff over the suit land as mentioned in Schedule-B of the plaint. But as the respondent-plaintiff could not prove his title along with possession over the suit land as mentioned in Schedule-C by adducing oral/documentary evidence on record, thus a cloud created in the mind of Learned Trial Court, so Learned Trial Court rightly decided the issue and refused to grant decree in respect of recovery of possession over the suit land as mentioned in Schedule-C of the plaint in favour of the plaintiff. More so, Learned Trial Court relied upon the report of Survey Commissioner (Exbt.H). According to Learned senior counsel, the purchase deed of the respondents i.e. the present appellants herein covered the suit land as mentioned in Schedule-C of the plaint as per boundary, all though, the respondent-plaintiff wrongly mentioned the old C/S plot No.828 in place of plot No.832 for which the Learned Trial Court below rightly refused to grant decree in respect of the suit land as mentioned in Schedule-C of the plaint. But the Learned First Appellate Court ignoring the oral/documentary evidence on record of the present appellants reversed the judgment of the Learned Trial Court in respect of the suit land as mentioned in Schedule-C of the plaint and ignored the report of the Survey Commissioner and give a perverse finding for which the interference of the Court is required and urged for allowing this appeal by setting aside the judgment and decree of the Learned First Appellate Court and to uphold the judgment of the Learned Trial Court. A written note was also submitted.

[8] On the other hand, Mr. T.D. Majumder, Learned senior counsel appearing on behalf of the respondent-plaintiff submitted that the Learned Trial Court at the time of delivery of judgment granted decree in favour of the respondent-plaintiff over the suit land as mentioned in Schedule-B of the plaint but mis-appreciating the evidence on record refused to grant decree in respect of recovery of possession over the suit land as mentioned in Schedule-C of the plaint for which the respondent-plaintiff was compelled to prefer an appeal

under Section 96 of CPC before the Learned First Appellate Court and the Learned First Appellate Court after considering and appreciating the entire evidence on record reversed the finding of the Learned Trial Court rightly in respect of the suit land as mentioned in Schedule-C of the plaint and there was not infirmity in the judgment of the Learned Appellate Court. Learned senior counsel further submitted that there is no substantial questions of law to be formulated in this case, so, he urged for dismissal of this appeal upholding the judgment of the Learned First Appellate Court.

[9] I have heard the detailed arguments of both the sides and also gone through the record of the Learned Trial Court as well as the Learned First Appellate Court including the oral/documentary evidence on record. Now, to answer this appeal, let us discuss what is substantial questions of law. Hon'ble the Supreme Court of India in **Sir Chunilal v. Mehta and Sons, Ltd. versus Century Spinning and Manufacturing Co. Ltd.** reported in **1962 SCC OnLine SC 57** in para No.6 discussed what is substantial question of law :

"6. We are in general agreement with the view taken by the Madras High Court and we think that while the view taken by the Bombay High Court is rather narrow the one taken by the former High Court of Nagpur is too wide. The proper test for determining whether a question of law raised in the case is substantial would, in our opinion, be whether it is of general public importance or whether it directly and substantially affects the rights of the parties and if so whether it is either an open question in the sense that it is not finally settled by this Court or by the Privy Council or by the Federal Court or is not free from difficulty or calls for discussion of alternative views. If the question is settled by the highest Court or the general principles to be applied in determining the question are well settled and there is a mere question of applying those principles or that the plea raised is palpably absurd the question would not be a substantial questions of law."

Similarly, Hon'ble the Supreme Court of India in another judgment in **Chandrabhan (Deceased) Through Lrs. and Others versus Saraswati and Others** reported in **2022 SCC OnLine SC 1273** in para Nos.29 to 32 discussed about substantial questions of law :

29. In Hero Vinoth v. Seshammal : (2006) 5 SCC 545, this Court followed Sir Chunilal v. Mehta & Sons (supra) and other judgments and summarized the tests to find out whether a given set of questions of law were mere questions of law or substantial questions of law.

30. The relevant paragraphs of the judgment of this Court in Hero Vinoth (supra) are set out herein below:

"21. The phrase "substantial question of law", as occurring in the amended Section 100 CPC is not defined in the Code. The word substantial, as qualifying "question of law", means of having substance, essential, real, of sound worth, important or 4 AIR 1962 SC 1314 5 AIR 1951 Mad 969 6 (2006) 5 SCC 545 considerable. It is to be understood as something in contradistinction with technical, of no substance or consequence, or academic merely. However, it is clear that the legislature has chosen not to qualify the scope of "substantial question of law" by suffixing the words "of general importance" as has been done in many other provisions such as Section 109 of the Code or Article 133(1)(a) of the Constitution. The substantial question of law on which a second appeal shall be heard need not necessarily be a substantial question of law of general importance. In Guran Ditta v. Ram Ditta 55IA 235 : AIR 1928 PC 172] the phrase "substantial question of law" as it was employed in the last clause of the then existing Section 100 CPC (since omitted by the Amendment Act, 1973) came up for consideration and their Lordships held that it did not mean a substantial question of general importance but a substantial question of law which was involved in the case. In Sir Chunilal case [1962 Supp (3) SCR 549 : AIR 1962 SC 1314] the Constitution Bench expressed agreement with the following view taken by a Full Bench of the Madras High Court in Rimmalapudi Subba Rao v. Noony Veeraju [AIR 1951 Mad 969 : (1951) 2 MLJ 222 (FB)] : (Sir Chunilal case [1962 Supp (3) SCR 549 : AIR 1962 SC 1314] , SCR p. 557)

"[W]hen a question of law is fairly arguable, where there is room for difference of opinion on it or where the Court thought it necessary to deal with that question at some length and discuss alternative views, then the question would be a substantial question of law. On the other hand if the question was practically covered by the decision of the highest court or if the general principles to be applied in determining the question are well settled and the only question was of applying those principles to the particular fact of the case it would not be a substantial question of law."

31. The proper test for determining whether a question of law raised in the case is substantial would be, whether it is of general public importance or whether it directly and substantially affects the rights of the parties and if so, whether it is either an open question in the sense that it is not finally settled by this Court. If the question is settled by the highest court or the general principles to be applied in determining the question are well settled and there is a mere question of applying those principles or the question raised is palpably absurd, the question would not be a substantial question of law.

32. To be 'substantial', a question of law must be debatable, not previously settled by law of the land or a binding precedent, and must have a material bearing on the decision of the case, if answered either way, insofar as the rights of the parties before it are concerned. To be a question of law "involving in the case" there must be first, a foundation for it laid in the pleadings and the question should emerge from the sustainable findings of fact arrived at by court of facts and it must be necessary to decide that question of law for a just

and proper decision of the case. An entirely new point raised for the first time before the High Court is not a question involved in the case unless it goes to the root of the matter. It will, therefore, depend on the facts and circumstance of each case whether a question of law is a substantial one and involved in the case or not, the paramount overall consideration being the need for striking a judicious balance between the indispensable obligation to do justice at all stages and impelling necessity of avoiding prolongation in the life of any lis. (See Santosh Hazari v. Purushottam Tiwari : (2001) 3 SCC 179.)"

From the above principle the concept of substantial questions of law can be gathered.

[10] Here in the given case, the respondent-plaintiff filed the suit for right, title and interest, confirmation of possession and perpetual injunction. The respondent-plaintiff sought declaration of right, title and interest over the A schedule land of the plaint, confirmation of possession and perpetual injunction restraining the appellant-defendants from entering into the B schedule land of the plaint and also sought recovery of vacant possession by evicting the respondent-defendants i.e. the appellants herein from the land as mentioned in Schedule C of the plaint. It was the case of the respondent-plaintiff that the plaintiffs purchased the suit land measuring 03 karas 14 dhurs in Sabek Dag No.832(P) with specific boundaries by dint of registered Sale Deed No.1-1335 dated 08.08.1973 from one Pranbalab Chakraborty and its adjacent plot measuring 0.05 acres from the same owner corresponding to similar old plot No.832(P) by dint of another Sale Deed No.1-1227 dated 09.08.1974 and after purchase, the respondent-plaintiff got possession of both the plots and he started possessing the suit land as an absolute owner. It was the further case of the respondent-plaintiff that in the year 1994 the defendants i.e. the appellants herein entered into the land as mentioned in Schedule-C of the plaint as permissive possessor being allowed by the respondent-plaintiff in order to run their bamboo business on condition that they would return back the possession as and when asked for by the respondent-plaintiff. But on 25.01.2009 when the respondent-plaintiff asked to vacate the same, they refused to do so. Hence, the suit was filed. Before the Learned Trial Court both the parties have adduced oral/documentary evidence

on record and finally after hearing both the sides the Learned Trial Court passed the judgment and decree. The appellants took the plea that the respondent-plaintiff being the owner of the suit land transferred the same by way of executing two separate registered sale deeds in the year 1982 and 1985 and thus, the present appellants got the possession of the suit land as mentioned in Schedule-C of the plaint and since then, they were possessing the suit land peacefully without any disturbance. It was also the case of the present appellants that the deed executed by the respondent-plaintiff in favour of the appellants attracts the land as mentioned in Schedule-C of the plaint but intentionally, the respondent-plaintiff wrongly quoted the C/S plot No.828 in place of 832 but the boundaries of the same deed attracts the land as mentioned in Schedule-C of the plaint. In course of hearing, the appellants before the Learned First Appellate Court relied upon the judgment of the Hon'ble Supreme Court of India in **Subhaga & Ors. vs Shobha & Ors.** reported in **(2006) 5 SCC 466** regarding the identification of land wherein it was held that *"a property can be identified either by boundary or by any other specific description is well established. Here the attempt had been to identify the suit property with reference to the boundaries and the Commissioner has identified that property with reference to such boundaries. Even if there was any discrepancy, normally, the boundaries should prevail."*

[11] However, after going through the oral/documentary evidence on record, it appears that the entire suit land as mentioned in Schedule-A of the plaint was recorded in the name of respondent-plaintiff in khatian No.534 under mouza-Manubazar, Tehashil-Manubazar and against the suit land as mentioned in Schedule-C for land measuring .020 acres the present appellants have been shown as permissive possessor. The finally published khatian is prepared after observing different stages during settlement operation. The appellants did not try to challenge the settlement order at the time of preparation of finally published khatian in the name of the respondent-plaintiff nor filed any prayer for rectification of the same. From the documents relied

upon by the present appellants it appears that by Exbt.A and Exbt.C the present appellants purchased their land from old C/S Plot No.828 classified as 'dokan tilla' which was recorded in the name of the predecessor owner of present appellants and on perusal of the trace map it appears that the plot Nos.832 and 828 are identical and have complete different boundaries having no direct nexus with each other. The present appellants during the time of settlement operation at different stages never made any attempt to pray for correction of record. Even no order of the settlement authority was produced to substantiate their contention and from the title deeds of the respondent-plaintiff and the title deeds of the appellants it appears that the respective lands are totally different. But it is not clear to this Court as to how the Learned Trial Court came to the observation that the respondent-plaintiffs has got no clear title over the land as mentioned in Schedule-C of the plaint. On perusal of the judgment of the Learned First Appellate Court it appears that the Learned First Appellate Court at the time of delivery of judgment vividly described all the issues and it appears that the Learned First Appellate Court rightly dishonoured/rejected the report of the Survey Commissioner. Even, from the evidence on record of the Survey Commissioner further it appears that he could not demarcate the land properly as ordered by the Court. Since the oral/documentary evidence on record clearly supports the claim of the respondent-plaintiff over the suit land as mentioned in Schedule-C of the plaint, so this Court also stands agree with the observation made by the Learned First Appellate Court in deciding the title of the respondent-plaintiffs over the suit land as mentioned in Schedule-C of the plaint. Learned First Appellate Court in the judgment clearly referred the provisions of Section 35 of the Evidence Act, Section 43 & 45 of TLR & LR Act, 1960 and also relied upon few citations in **Sudhangshu Mohan Dev Vs Niruda Sundari Debidhup** reported in **(2004) 4 SCC 389** and also another case of **Uttam Kumar Sen and Others Vs Gita Das Chowdhury & Others** reported in **(1998) 3 GLT 299**. Section 43(3) of TLR & LR Act provides that :

“(3)Every entry in the record of rights as finally published shall, until the contrary is proved, be presumed to be correct.”

[12] Here in the given case after perusal of the oral/documentary evidence on record of the parties under dispute and also after going through the judgment delivered by the Learned First Appellate Court as well as by the Learned Trial Court it appears that the Learned Trial Court at the time of delivery of judgment wrongly came to the observation that the respondent-plaintiff was not having any clear title over the suit land as mentioned in Schedule-C of the plaint and thus came to an erroneous finding rejecting the prayer of the respondent-plaintiff in respect of recovery of possession over the suit land as mentioned in Schedule-C of the plaint which in my considered view the Learned First Appellate Court rightly decided in favour of the respondent-plaintiff reversing the finding of the Learned Trial Court in respect of the suit land as mentioned in Schedule-C of the plaint and granted the decree in favour of the respondent-plaintiff. More so, as alleged by the appellants that they were not the permissive possessors rather they were the lawful owners of the suit land as mentioned in Schedule-C of the plaint, they did not take any step for correction of record to the settlement authority for deleting their names as permissive possessor nor they took any steps for rectification of deed from their vendor in respect of C/S plot No. So, after elapsing of a long period and on perusal of the title deeds of the rival parties it appears that since the lands of the parties under dispute are distinct and different and there is no ambiguity on that. So, in my considered view, the Learned First Appellate Court rightly delivered the judgment in favour of the respondent-plaintiff of this appeal and on perusal of the exhibited documents of the parties it appears that Section 95 of the Evidence Act would not assist the appellants in this appeal on the ground as alleged by them and accordingly, the substantial questions of law are answered in negative against the present appellants of this appeal.

[13] In the result, the appeal filed by the appellants challenging the judgment and decree dated 24.11.2022 delivered by Learned Additional

District Judge, South Tripura, Sabroom in connection with Case No.T.A.01 of 2022 is hereby dismissed on contest with costs. The judgment and decree dated 24.11.2022 delivered by Learned First Appellate Court in connection with Case No.T.A.01 of 2022 reversing the judgment delivered by Learned Civil Judge, Senior Division, Belonia, South Tripura in respect of the suit land as mentioned in Schedule-C is hereby upheld and accordingly it is affirmed. The respondent-plaintiff being the lawful owner of the land as mentioned in Schedule-C of the plaint is entitled to get the decree of recovery of possession in respect of the suit land as mentioned in Schedule-C of the plaint by evicting the defendants i.e. the appellants herein or their men or agents, besides the other part of the decree allowed by the Learned Trial Court in favour of the respondent-plaintiff.

Prepare the decree accordingly.

Send down the LCRs along with a copy of the judgment.

Pending application/s, if any, also stands disposed of.

JUDGE

SABYASACHI
BHATTACHARJEE

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