

**HIGH COURT OF TRIPURA
AGARTALA
RSA No. 07 of 2025**

Akkal Ali,
S/o. Late Anar Ali
of Barkhala, P.S. Kailashahar,
Dist. Unakoti Tripura.

.....Appellant(s).

Versus

1. **Gulabun Nessa,**
D/o. Late Ajib Ullah,
2. **Achaddar Ali,**
S/o. Late Ajib Ullah,
3. **Masaddar Ali,**
S/o. Late Ajib Ullah,
4. **Manar Ali,**
S/o. Late Ajib Ullah,
5. **Kanar Ali,**
S/o. Late Ajib Ullah,
6. **Rakibun Nessa,**
D/o. Late Ajib Ullah,
7. **Sahid Ali,**
S/o. Late Ajib Ullah,
8. **Majid Ali,**
S/o. Late Ajib Ullah,



All the respondent Nos. 1 to 8 are resident of
Village-Barkhala, P.O. Ichabpur, P.S. Kailashahar,
Dist. Unakoti Tripura, PIN-799277.

.....Respondent(s).

For Petitioner (s)	:	Mr. Himangshu Deb, Advocate.
For Respondent(s)	:	None.
Date of Hearing		
& Delivery of judgment	:	07.05.2025
Whether fit for reporting	:	No

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT AND ORDER (ORAL)

Heard Mr. Himangshu Deb, learned counsel appearing for the appellant.

[2] The gist of the case of the plaintiff-respondents is that their predecessor was the owner of 'A' scheduled land comprising 1.55 acres and after his death the plaintiffs inherited the same. Meanwhile, on 10.03.2017 the appellant-defendant forcibly dispossessed them from a portion of the 'A' schedule land measuring 0.15 acre which is described specifically in 'B' scheduled land of the plaint. According to the plaintiffs, the defendant also constructed huts therein after such dispossession. With such grievances, the plaintiffs filed suit for declaration of right, title and interest and recovery of possession.

[3] Ld. Trial Court granted the decree and the Ld. First Appellate Court also affirmed the same by the impugned judgment dated 17.12.2024 in Title Appeal No.07 of 2023 passed by Ld. District Judge, Unakoti Judicial District, Kailashahar and challenging the said judgment and decree, the present appeal is filed.

[4] Mr. Himangshu Deb, learned counsel strenuously argues that the plaint itself is filled with suppression of material facts. Actually, the defendant purchased the suit land from the predecessor of the plaintiffs as bonafide purchaser against payment of consideration money, but as it was an allotted land

and no permission was obtained from the concerned District Magistrate & Collector, the deed of purchase could not be registered. However, two numbers of unregistered deeds of such purchase were duly proved into evidence during trial. But, Ld. Trial Court as well as Ld. First Appellate Court failed to consider the same and arrived at a *per se* wrong decision.

[5] The Court has considered the submission and also has gone through the records. It appears that during trial from the side of the plaintiffs, three witnesses were examined and other three witnesses were also examined from the side of the defendant and both the sides proved certain documents into evidence. The plaintiffs proved their allotment order standing in the name of their predecessor Ajib Ullah and his wives and another Khatian No.129 of Mouja Ichabpur. Based on those documents both the Courts below came to a clear finding that the plaintiffs were able to prove the title over the 'A' schedule land which led them to decree the suit.

[6] Ld. Trial Court as well as Ld. First Appellate Court did not take into consideration two numbers of unregistered deeds dated 08.08.2005 and 05.12.2005 under Exhibit 'C' and Exhibit 'D' on the ground that transfer of land by way of unregistered deed was not sanctioned by law. On consideration of the reasoning as put forward by the Ld. Courts below, this Court does not find any error in disturbing such decision. However, what is noticed is that the plaintiffs claimed their date of dispossession to be on 10.03.2017 whereas, as per the evidence surfaced in the records, the defendant already occupied the suit

land in the year 2005 and, therefore, there are some differences regarding the alleged claim of date of dispossession of the plaintiffs in contrast to the claim of the defendant of their purchase in the year 2005.

[7] However, in view of the observation made by the Hon'ble Supreme Court in **Smt. Gitarani Paul vs. Dibyendra Kundu @ Dibyendra Kumar Kundu, AIR (1991) 1 SCC 395**, in the second appeal, the High Court cannot go into the question of ascertaining such date of dispossession. The relevant paragraph No.8 of said decision is extracted hereunder:

"8. In the face of clear pleadings and the evidence on record the High Court was wrong in reaching the conclusion that there was no pleadings and evidence regarding dispossession. Even otherwise in the face of the finding of the courts below that the appellant-plaintiff had proved her title it was not necessary for the High Court to go into the question of ascertaining the date of dispossession. We, therefore, do not agree with the reasoning of the High Court and set aside the same."

Considering all these aspects, this Court does not find any substantial question of law involved in this second appeal warranting admission thereof.

Situated thus, the second appeal is not admitted and disposed of accordingly.

Pending application(s), if any, shall also stand disposed of.

Communicate copy of this order to the Ld. Courts below.

JUDGE

SUJAY GHOSH

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