

HIGH COURT OF TRIPURA
A G A R T A L A

RSA No.20 of 2025

Sri Maran Jamatia,

Son of late Bipin Das Baishnab (Jamatia), resident of Rajnagar, PS & PO RK Pur, Udaipur, District Gomati, Tripura.

Present address TSSD Hospital Staff Quarters, PO RK Pur-799120, District Gomati, Tripura

..... Appellant(s)

- V e r s u s -

- 1. The State of Tripura,**
Represented by the District Magistrate & Collector, District Gomati, Udaipur, PO RK Pur-799120, Tripura.
- 2. The Sub-Divisional Magistrate,**
Udaipur Sub-Division, PS & PO RK Pur-799120, District Gomati, Tripura.
- 3. The Block Development Officer,**
Matarbari RD Block, PO Matarbari, Udaipur, District Gomati, Tripura.
- 4. The Executive Engineer (PWD),**
Udaipur Division, PO RK Pur-799120, District Gomati, Tripura.
- 5. The Sub-Divisional Officer (PWD),**
Udaipur Division II, PO RK Pur-799120, District Gomati, Tripura.
- 6. The Panchayet Secretary,**
Rajnagar Gaon Panchayet, PO RK Pur-799120, District Gomati, Tripura.

..... Respondent(s)

For the Appellant(s)	:	Mr. D.K. Daschadhury, Advocate. Mr. Sayantan Talapatra, Advocate.
For the Respondent(s)	:	Mrs. Pinki Chakraborty, Advocate.

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

ORDER

06/08/2025

Heard Mr. D.K. Daschadhury, learned counsel for the appellant.

[2] The plaintiff-appellant has filed the original suit for declaration of his right, title and interest in the suit land under A-

schedule along with recovery of possession of a part of the suit land described under B, B(i) and B(ii) of the schedule and perpetual injunction prohibiting the defendants from entering into the C-schedule land.

[3] The case of the plaintiff is that the original owner of the suit land was his father Bipin Das Baishnab (Jamatia) and on his death in the year 1980, the suit land devolved upon his three legal representatives i.e. the plaintiff, one Biswamanik Jamatia and another Dilip Kumar Jamatia as legal representatives. Thereafter, khatian opened in the name of plaintiff regarding "A" schedule land as sole owner- cum-possessor of the same. According to him, other two legal representatives of late Bipin Das Baishnab (Jamatia) got some other lands by way of amicable settlement. It is also asserted that while he was possessing the same, defendant no.6 most illegally dispossessed him from "B" schedule land on 05.07.1999 and defendant nos.4 and 5 dispossessed him on 25.09.2008 from "B(i)" and "B(ii)" schedule. On 30.04.2016, the defendants also attempted to dispossess him from another part of "A" schedule land described in "C" schedule of the plaint.

[4] The defendants challenged that said Bipin Das Baishnab was an unmarried person and therefore, the plaintiff was never his son and moreover, he was never in possession of "A" schedule land as already PWD constructed a road within a portion of the suit land. In the Trial Court, the plaintiff examined himself and also proved certain documents into evidence on his behalf. Learned Trial Court

after hearing the parties finally dismissed the suit holding that the plaintiff could not establish his right, title, interest in the suit land.

[5] Initially, the suit was dismissed vide judgment dated 02.04.2019 and in the appeal filed by the plaintiff bearing no.TA 11 of 2019, the suit was again remanded to the Trial Court for fresh decision firstly on the issue as to whether the plaintiff was the son of late Bipin Das Baishnab (Jamatia) or not and then to decide other issues. Learned Trial Court decided said issue against the plaintiff on thorough appreciation of evidence and ultimately dismissed the suit again on 22.12.2022.

[6] In appeal, learned District Judge, Gomati, Udaipur also again appreciated the evidences on record and affirmed the judgment of the learned Trial Court. Learned District Judge while appreciating such evidences observed that the plaintiff had failed to disclose the name of his mother i.e. wife of Bipin Das Baishnab in his cross examination and that in the year 1980, during riot, one Sani Madraji found him and brought him up. Learned Trial Court also drew adverse inference for not producing death certificate of Bipin Das Baishnab and his survival certificate and DW-1 who was the nephew of said late Bipin Das Baishnab in his evidence also stated that said Bipin Das Baishnab had died unmarried and such portion of evidence, according to learned District Judge remained unchallenged and undisputed by the plaintiff during cross-examination. Moreover, plaintiff also failed to produce other two legal representatives of his father i.e. Biswamanik Jamatia and Dilip

Kumar Jamatia in the Court to prove that he was also one of the legal representatives of Bipin Das Baishnab and ultimately held that plaintiff had failed to prove that Bipin Das Baishnab was a married person and plaintiff was his son.

[7] Mr. D.K. Daschaudhury, learned counsel argues that the suit land was recorded solely in the name of the plaintiff but both the learned Trial Court and the First Appellate Court failed to appreciate the statutory presumption of correctness of said record of right. In this regard, Mr. Daschaudhury, learned counsel also relies on a decision of a Coordinate Bench of this Court in the case of ***Amiyanshu Sharma and others vs. Matilal Dey and others [(2022) 1 TLR 571]***. According to Mr. Daschaudhury, learned counsel, a substantial question is involved in this appeal regarding perversity of the decisions of the learned Trial Court and of learned First Appellate Court for not drawing requisite statutory presumption about correctness of the Khatian and therefore, the appeal may be admitted.

[8] This Court has considered the submission and also has gone through the materials placed in the record.

[9] It has been specific plea of the defendants that the plaintiff was not the son of the original owner, Bipin Das Baishnab and a specific issue was also framed on that point but both the learned Trial Court and the First Appellate Court, after appreciation of evidences placed in the record by both sides, have come to the conclusion that the plaintiff had failed to prove that he was the son

of the original owner. When such legal heirship itself is not established, the presumptive value of correctness of entries of the Khatian in the instant case cannot be raised, as just by getting the name recorded in the revenue record against any land will not confer any title to him, more particularly, when legal heirship of the plaintiff was under serious challenge. The plaintiff also could not show as to how the land was recorded solely in his name in the ROR when he, according to him, has other two co-sharers. Though he has brought a story of amicable family settlement but no document in this regard is produced in the Court during trial. Therefore, same also cut across such statutory presumption of correctness of entries of ROR. The decision arrived by both the Courts below are completely based on appreciation of evidences on facts involved in the suit and third time appreciation of such fact is not permissible in the second appeal. The plaintiff fails to satisfy the Court to show any such substantial question of law is involved in the appeal to be decided by this Court. Accordingly, the appeal is not admitted and disposed of.

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

Communicate copy of this order to the learned Courts below.

JUDGE