

**HIGH COURT OF TRIPURA
AGARTALA**

RFA 06 OF 2025

Sri Harendra Rudra Paul,
S/o Late Manmohan Rudra Paul,
Resident of Village-Indiranagar-8, Ghrantoli,
P.O. & P.S.-Melaghar, District-Sepahijala,
Tripura, Pin-799115.

... **Appellant-Defendant**

Vs.

1. Smt. Uma Rudra Paul,
W/o Late Manindra Rudra Paul.

2. Smt. Mandira Rudra Paul,
D/o Late Manindra Rudra Paul.

3. Miss Indira Rudra Paul (Minor),
D/o Late Manindra Rudra Paul.

As per the Hon'ble Court's order dated 05.11.2025, passed in
IA 02/2025 in RFA No. 06/2025, the address of the
Respondent nos. 1, 2 & 3 has been corrected in the cause
title of the Memorandum of Appeal as per schedule of
the amendment as—

Present residing at C/o Sri Swapan Debnath, resident of Bhallukiatilla,
Near Radhakrishna Temple, P.O. Kunjaban, P.S. N.C.C.,
Agartala, District-West Tripura, Pin-799006.

.... **Respondent-plaintiffs.**

For the appellant : Ms. S. Deb (Gupta), Advocate.
Mr. Ramprasad Gope, Advocate.

For the respondents : Mr. Saktimoy Chakraborty, Sr. Advocate.
Mr. Kousik Roy, Advocate.

Date of hearing and : **25.02.2026**
date of delivery of
judgment and order

Whether fit for reporting : No

**HON'BLE JUSTICE DR.T. AMARNATH GOUD
HON'BLE MR.JUSTICE S. DATTA PURKAYASTHA**

JUDGMENT & ORDER(ORAL)

(Dr. T. Amarnath Goud, J)

This appeal is directed under Section 96 of the Code of Civil
Procedure against the impugned judgment dated 10.04.2025, passed by

learned Civil Judge (Sr. Division), Court No.1, Sepahijala Tripura, Sonamura in TS(P) No.11 of 2020 whereby and whereunder the learned Court below has allowed the partition of the suit land and accordingly decreed the suit preliminary.

2. The brief facts of the case of the plaintiffs [the respondents herein] are that they filed a suit for partition of the suit land mentioned in the schedule of the plaint before the learned Court below. Originally the schedule land of the plaint belonged to one Manmohan Rudra Paul, S/o Lt. Chandra Kumar Rudra Pal. Said Manmohan Rudra Paul died on 18.12.1995 leaving behind his survivors i.e. his wife Sachi Rani Rudra Paul, two sons namely Harendra Rudra Paul and Manindra Rudra Paul. On 21.12.1998, Sachi Rani Rudra Paul also died leaving behind her aforesated two sons. On 18.11.2009 Manindra Rudra Paul died leaving behind the plaintiffs' i.e. plaintiff no.1 being his wife and plaintiff nos. 2 and 3 being his two daughters as legal heirs. The contention of the original plaintiffs is that after the death of Manindra Rudra Paul, the defendant [appellant herein], started causing torture upon the plaintiff no.1 and due to this, she sometimes used to stay in her brother's house at Agartala along with her two daughters. There were so many meetings held out of the disputes arose between the plaintiffs and the respondent over their land matter. Ultimately, on 17.11.2019 a meeting was held in the Office room of Melaghar Municipal in presence of the then Chairman namely Sri Uttam Das, the then Vice-Chairman and other 7 witnesses whereby some resolutions were taken and the defendant agreed to pay the plaintiff no.1 a sum of Rs.20,00,000/-. Thereafter, the defendant has given three numbers of cheques and out of these three cheques, one cheque got dishonoured due to Covid-19 pandemic. The plaintiffs, thereafter on 16.05.2020 has sent an

advocate notice to the defendant requesting him to amicably partition the suit land and also to give due amount to the plaintiffs. But, the defendant in reply to that notice stated that the plaintiffs may approach the appropriate legal forum for partition of the suit property. Hence, the plaintiffs filed the original suit before the learned Court below.

3. Learned trial Court upon the pleadings of the plaintiffs, issued summons to the defendant and on receipt of the summons, the defendant contested the suit by filing written statement. The defendant in his written statement denied most of the averments made by the plaintiffs in their pleadings. It is contended by the defendant that on 25.10.2000 during the life time of the husband of the plaintiff no.1, a meeting was held to discuss the disputes wherein the then Pradhan, members of Indiranagar Gaon Panchayat under Melaghar R.D. Block were present and a resolution was taken to mitigate the disputes arose between the parties.

4. Plaintiffs, in course of trial, examined three witnesses as PW-1, PW-2 and PW-3 respectively and they were cross-examined by the defence. They also exhibited some documents which were marked as Exhibit-1 to Exhibit-16. Defendant also examined three witnesses as DW-1, DW-2 and DW-3 and some documents were marked as Exhibit-A, Exhibit-A/1 and Exhibit-B.

5. Learned trial Court to decide the suit, framed the following issues:

- i. *Whether the instant suit is maintainable in its present form and nature?*
- ii. *Whether the plaintiffs have cause of action for filing the instant suit?*

- iii. *Whether the suit land is liable to be partitioned among the plaintiffs and the defendant and if so what should be the respective shares of the plaintiffs and the defendant?*
- iv. *Whether the resolution dated 25.10.2000 dis-entitles the plaintiffs from seeking the relief of partition of the suit land in the instant suit?*
- v. *Whether the plaintiffs are entitled to the reliefs claimed or to any other relief/reliefs?*

6. Considering the pleadings, written statement and the exhibited documents submitted by either of the parties, learned trial Court on 10.04.2025, passed the judgment and decreed the suit preliminary in favour of the plaintiffs with the following order:

“In the result, the suit is decreed in preliminary form without cost considering the peculiar nature of the suit.

Hence, the plaintiffs together are entitled to equal share over the suit land measuring 0.80 acres mentioned in the SCHEDULE of ‘A’ LAND of the plaint and are also entitle to equal share over another 12 gandas of land mentioned in the plaint of the suit.

Accordingly, the plaintiffs and the sole defendant are hereby, at liberty to make partition of the suit land as ordered and directed above and as per mentioned in the Schedule of the plaint amicably within 3(three) months.

Failure to make amicable partition of the suit land within the stipulated period as directed, either of the parties in the suit are at liberty to knock the door of the Court, for partition of the same through by way of filing for final decree.

Preliminary decree be prepared accordingly.

Sr. Sheristadar of this Court is hereby directed to prepare the preliminary decree and place the same before me for obtaining my signature and seal within 14(fourteen) days from the date of passing of this Judgment and Order.

Make necessary entry in the relevant TR and CIS.”

7. Being aggrieved and dissatisfied with the said judgment and order, the original defendant has filed the instant appeal.

8. At the very outset, Ms. S. Deb (Gupta), learned counsel appearing for the appellant-defendant submits that the learned Court below has committed serious illegality and material irregularity while passing the impugned judgment. She contends that learned trial Court did not consider the resolution dated 25.10.2000 [Exbt.A] in which the appellant-defendant and the husband of the respondent-plaintiff No.1 amicably settled/partitioned the suit land. In support of his submission, Ms. Deb (Gupta), learned counsel relies on the decision of Hon'ble Supreme Court in the case of ***K. Arumuga Velaiah vs. P.R. Ramasamy & Anr.***, reported in (2022) 3 SCC 757. Thus, she prays for setting aside the impugned judgment and order of preliminary decree passed in favour of the respondents-plaintiff.

9. In rebuttal to the contentions as raised by Ms. Deb (gupta), learned counsel for the appellant, Mr. S. M. Chakraborty, learned senior counsel submits that there is no manifest error in passing the preliminary decree in favour of the respondents by the learned trial Court. Mr. Chakraborty, learned senior counsel submits that the resolution dated 25.10.2000 [Exbt.A] was never acted upon as the author of the resolution did not come forward before the Court to prove his signature. Therefore, unless the author comes, the document cannot be proved. Had there been any partition, the mutation record would have been different. There is no separate mutation also. Finally, Mr. Chakraborty, learned senior counsel contends that since the resolution is not a registered document, learned trial Court has rightly decided the suit in favour of the respondent-plaintiffs and accordingly, he prays for dismissal of the appeal.

10. Ms. S. Deb Gupta, learned counsel appearing for the appellant-defendant relying on the decision of ***K. Arumuga Velaiah*** (supra), contended

that there is a resolution dated 25.10.2000 wherein both the defendant and the husband of the first plaintiff and the father of the plaintiff nos. 2 and 3 were the signatories and Pradhan of the village has also signed in the said resolution and if the said resolution is accepted, there will be no grievance in terms of the said resolution for partition of the suit land. She, therefore, submits that the trial Court ought to have considered the said resolution [Exbt. A] and appreciated the same in spite of being it is an un- registered document along with other contentions.

11. Per contra, learned senior counsel, Mr. S. M. Chakraborty for the plaintiffs-respondent submits before this Court that the learned trial Court's order is just and proper and it needs no interference and at the same time all equal shares were decided and this was only in pursuance of the reply to the legal notice which was issued by the defendant to the plaintiffs' counsel where it is categorically indicated that in the event if the plaintiffs are not inclined to agree with any such proposal as indicated in the reply notice, the defendant is ready to go for partition of the whole property. In view of the said proposal, the plaintiffs were not agreeable to amicably partition their suit land, rather, they invoked the Court's jurisdiction by filing the suit before the trial Court seeking partition. The Court has framed five numbers of issues in the suit and after elaborate examination of the evidences and more so, on the evaluation of evidence of DW-1 come to a conclusion that the suit needs to be preliminary decreed and accordingly, the same was ordered.

12. For the submissions made by learned senior counsel, Mr. Chakraborty, this Court is convinced and after perusing the judgment, the preliminary decree passed by the learned Court below on partition, we find

that there is no necessity for any interference with the impugned judgment and decree. Accordingly, the appeal stands dismissed.

Both the parties are at liberty to proceed with the matter before the learned trial Court as per procedure.

Send back the LCR along with a copy of this judgment.

S.DATTA PURKAYASTHA, J

DR.T. AMARNATH GOUD, J

SANJAY GHOSH Digitally signed by SANJAY GHOSH
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