

HIGH COURT OF TRIPURA
AGARTALA

RFA No.10 of 2025

Sri Swapan Laskar,
Son of Samarendra Laskar,
Resident of Vill. Chandigarh, Melaghar,
P.O. Melaghar, District- Sepahijala, Tripura.

.....Plaintiff-Appellant(s).

V e r s u s

Legal heirs of deceased Satindra Sutradhar:

1. Sri Arun Sutradhar,
 2. Sri Umesh Sutradhar,
 3. Sri Jayanta Sutradhar,
- All are sons of Lt. Satindra Sutradhar,
Residents of Vill. Purba Gakulpur, P.O: Gakulpur, District: Gomati, Tripura.
4. Smt. Malati Sutradhar,
- Daughter of Lt. Satindra Sutradhar,
W/o. Sri Sukhen Das, Resident of Vill. Amarpur, Rangamati, P.S: Birganj, District- Gomati, Tripura.
5. Smt. Manju Sutradhar,
- Daughter of Lt. Satindra Sutradhar,
Resident of Vill. Purba Gakulpur, P.O: Gakulpur, P.S: R.K. Pur, District- Gomati, Tripura.

Legal heirs of deceased Manoranjan Sutradhar, son of Lt. Satindra Sutradhar:

- 6(a). Smt. Milan Sutradhar,
- Wife of Lt. Manoranjan Sutradhar,
- 6(b). Sri Krishna Sutradhar,
 - 6(c). Sri Bishnu Sutradhar,
- Both are sons of Lt. Manoranjan Sutradhar,
- 6(d). Smt. Swapna Sutradhar,
 - 6(e). Smt. Ankuri Sutradhar,
- Both are daughters of Lt. Manoranjan Sutradhar,
All (6a to 6e) are the residents of Village: Purba Gakulpur, P.O: Gakulpur, District- Gomati, Tripura.

7. Legal heirs of deceased Dulal Sutradhar, son of Lt. Satindra Sutradhar:

- 7(a). Smt. Mamata Sutradhar,
- Wife of Lt. Dulal Sutradhar,
- 7(b). Sri Rupak Sutradhar,
- Son of Lt. Dulal Sutradhar,
Both are residents of Vill. Purba Gakulpur, P.O: Gakulpur, District- Gomati, Tripura.

.....Defendants-Respondent(s)

8. Smt. Arati Sutradhar,
Daughter of Lt. Surendra Sutradhar,
And wife of Sri Surja Sutradhar,
Resident of Amarpur Town, Ward No.5,
P.O: Amarpur- 799101, District- Gomati, Tripura.

.....Proforma-Defendant-Respondent(s).

For Appellant (s) : Mr. Dilip Kumar Das Chawdhury, Advocate.

For Respondent(s) : Mr. Bibek Banerjee, Advocate.
Ms. Ruma Majumder, Advocate.

Date of hearing and date of
delivery of Judgment & Order : 10th March, 2026

Whether fit for reporting : NO

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER (Oral)

Heard learned counsel of both sides.

[2] The judgment of dismissal dated 03.04.2025, passed by the learned Civil Judge (Senior Division) (Court No.1) Gomati, Udaipur in TS (P) No.04 of 2024, and the related decree drawn thereupon, are under challenge in this appeal, whereby the learned Trial Court declined to grant the decree of partition of the suit property.

[3] As per the averments made in the plaint, the original owners of the suit land were two brothers, namely Satindra Kr. Sutradhar and Surendra Kr. Sutradhar having their 66% ($\frac{2}{3}^{\text{rd}}$) and 33% ($\frac{1}{3}^{\text{rd}}$) share respectively therein. The said fact is also reflected in Khatian No.206 of Mouja-Gakulpur (Exhibit P-1). The total land as was recorded in their names is 0.85 acre consisting of four plots. Said Satindra Kr. Sutradhar died leaving behind him the defendant/respondent Nos.1 to 7(b) above as his ultimate legal representatives, and Surendra Kr. Sutradhar also died on 27.10.1977, leaving behind him his wife Sachi Rani Sutradhar and daughter Smt. Arati Sutradhar as his legal representatives. According to the appellant, said Sachi Rani Sutradhar also died on 18.11.1990, leaving only the present respondent No.8 as ultimate legal representative of her father and she therefore became the sole owner of the said 33% ($\frac{1}{3}^{\text{rd}}$) share therein. Being in need of money, she thereafter transferred the B-Schedule land, which is a part of the said joint

property (A-Schedule land), to the present appellant, Sri Swapan Laskar, vide registered sale deed bearing No.1-1138, dated 26.08.2020. In fact, in the Schedule B of the plaint, there is only mention of said 1/3rd share, i.e., 6336.2448 square feet of land in the joint stock, of which the vendor of the appellant was entitled in the joint property. It is also the case of the appellant that mutation after such purchase by him was not done in the ROR in his name in absence of any partition of the suit property.

[4] Mr. Dilip Kumar Das Chawdhury, learned counsel for the appellant submits that since only the share in the joint property was sold by respondent No.8 to the appellant without specification of any definite portion in the joint property, such mutation could not be done. After such purchase, the appellant instituted the instant suit for partition, making all the ultimate legal representatives of Lt. Satindra Kr. Sutradhar parties to the suit and after summons was issued to them, they initially entered their appearance through their learned counsel but ultimately did not contest the suit by submitting any written statement and, consequently, no evidence was also adduced by them. Mr. Das Chawdhury, learned counsel further submits that the appellant proved the said Khatian standing in the name of said original owners, Satindra Kr. Sutradhar and Surendra Kr. Sutradhar, and also proved his title deed, i.e., his said registered deed of purchase into evidence, but despite the same, on a tiny and technical ground, the suit was dismissed by learned Trial Court with observations that the relevant survival certificate showing the legal heirship of the vendor of the appellant and the death certificate of her mother were not produced into evidence. Learned counsel, therefore, prays for a decree as per the prayer made in the plaint.

[5] Mr. Bibek Banerjee, learned counsel representing the respondent Nos.1, 2, 4, 5 & 6(b), submits that they have no objection in decreeing the suit, and they are also not disputing the matter of the sole legal heirship of the vendor of the appellant. Learned counsel also submits that the respondents did not contest the suit before the learned Trial Court as they had no grievance against the claim of the appellant.

[6] The Court has considered the submissions of both sides and has gone through the record. As already indicated above, the ROR of the suit land (A-Schedule land) stands in the name of Satindra Kr. Sutradhar (2/3rd share) and

Surendra Kr. Sutradhar (1/3rd share) in Khatian No.206 (Exhibit P-1) of Mouja-Gakulpur, consisting of a total 0.85 acre of land. The purchase deed of the appellant [Exhibit-P(i)] shows that he purchased a total of 12240.2448 square feet land, i.e., said 1/3rd share from the total joint property from said Smt. Arati Sutradhar (respondent No.8), and in the purchase deed itself, the name of her father is mentioned to be Lt. Surendra Kr. Sutradhar and she was the sole legal representative of her father.

[7] When the respondents themselves did not choose to contest the suit by disputing the legal heirship of said Smt. Arati Sutradhar or her ownership in the land to the extent of 1/3rd share therein, the learned Trial Court has committed an error by delving deeper into the matter and putting the additional burden on the appellant of proving said fact of legal heirship, or the fact of her ownership in the suit land. It ought to have been borne in mind that civil disputes are adjudicated on the basis of preponderance of probability and this judgment is only inter-parties, not having any binding affect on any third party who is not a party to the suit. Therefore, when the defendants were not contesting the claim of the petitioner and were not disputing his contentions, there was no necessity to insist for production and proving of such documents.

In view of the above, the impugned judgment and decree are set aside.

The suit of the plaintiff-appellant is decreed in preliminary form. It is declared that the plaintiff-appellant will get 1/3rd share in the total A-Schedule land. The parties are directed to amicably partition the A-Schedule land in terms of this judgment within two months from today and on failure to go for such amicable partition, the plaintiff-appellant will be at liberty to approach the learned Trial Court for the preparation of a final decree in accordance with law.

The appeal is accordingly allowed.

No order as to cost.

The Registry will prepare the decree forthwith and will re-consign the learned Trial Court record with copies of this judgment and decree.

JUDGE

