

**HIGH COURT OF TRIPURA
AGARTALA**

RSA No.22 of 2025

1. The State of Tripura, Represented by the District Magistrate & Collector, District Gomati, Udaipur, Tripura.
2. Secretary, Department of Fisheries, Government of Tripura, Agartala.
3. Deputy Director of Fisheries, Gomati District, Udaipur.
4. Superintendent of Fisheries, Udaipur, Gomati, Tripura.

..... Appellant(s).

V E R S U S

Sri Chandan Das, S/O. Late Gopal Ch. Das, Rajdhanagar, P.S.-Kakraban, Udaipur, District-Gomati, Tripura.

..... Respondent(s).

For Appellant(s) : Mr. Dipankar Sarma, Addl. G.A.

For Respondent(s) : Mr. Debesh Chandra Roy, Advocate.

HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO

Date of hearing & judgment : **10.04.2026.**

Whether fit for reporting : **NO.**

JUDGMENT & ORDER (ORAL)

Heard Mr. Dipankar Sarma, Addl. Government Advocate appearing for the appellants and Mr. Debesh Chandra Roy, counsel appearing for the sole respondent.

2. In this Second Appeal filed by the State Government, the judgments of the trial Court and the First Appellate Court declaring the right, title and interest of respondent, and granting relief of recovery of vacant possession to him by demolishing all the constructions on the land, and for perpetual injunction restraining the appellants from interfering with the possession of the respondent over the said land, are questioned.

3. Both the trial Court as well as the Appellate Court have held that the father of the respondent was the sole owner in possession of the subject

land and that during his lifetime, he allowed the then In-charge of Rajdharnagar Manikya Dighi to take "permissive" possession of the subject land for the purpose of construction of Fishery Office and supervision and looking after the Rajdharnagar Manikya Dighi on condition that "as and when the respondent or after his death his legal heirs would demand, the Fishery Department will hand over the said land to them". The respondent also contended that in the Revisional Survey and settlement operation, in the remarks column against the subject property, the name of the Agriculture Department was recorded as "permissive possessor".

4. The respondent contended that the appellants have no right, title and interest over the suit schedule property and only the respondent is entitled to the relief as claimed in the suit.

5. The appellants took a plea in the written statement that the original owners of the suit land were Abdul Gafur and Abdul Munaf and they had orally gifted 0.10 acres of land to the Agriculture Department for the construction of the Agriculture Office on their land, and that the said oral gift happened on 03.02.1963 in the presence of villagers of Rajdhar Nagar.

6. They contended that after getting delivery of possession, the Superintendent of Agriculture, Udaipur constructed an Agriculture Office on the suit land to look after and give service to the villagers for Agriculture purposes, and staff of the Fisheries also used to perform their duties from the said office building situated on the suit land.

7. They contended that in 1977-78, the Fishery Department separated from the Agriculture Department and that the offices constructed in

the subject land, therefore, came to be in the possession of the Superintendent of Fisheries, Udaipur.

8. They contended that the father of the respondent had purchased the land from Abdul Gafur and Abdul Munaf under a registered sale deed on 30.09.1964, but since the land had already orally been gifted by Abdul Gafur and Abdul Munaf, the sale in favour of the respondent's father was not valid.

9. Both the trial Court as well as the Appellate Court rejected the plea of oral gift raised by the appellants stating that though under Section 129 of the Transfer of Property Act, 1882, oral gifts can be made by Muslims, no witnesses or villagers, who witnessed the oral gift, were examined on behalf of the appellants to prove the said oral gift. It was also held by both the Courts that the Khatian No.136 relating to the subject land had been prepared by following the process of law and the appellants could not prove otherwise. It was further held that the entry in the khatian itself showed the Agriculture Department is in permissive possession under the respondent's father and, therefore, the appellants cannot oppose the claim of the respondent.

10. Though counsel for the State sought to contend that there are substantial questions of law for consideration arising in the appeal, at the time of admission of the Second Appeal, this Court had framed only one substantial question of law stating that *"Whether the judgment of learned Courts below are perverse for declaring right, title, interest and possession of the suit land in favour of the plaintiff alone when there are other legal heirs of the plaintiff?"*

11. The answer to this question is obviously that if there are co-owners to the land along with the respondent/plaintiff, the fact that the other

co-owners are not before the Court makes no difference because it is settled law that one co-owner will represent the other co-owners.

12. Once the oral gift pleaded by the appellants has not been proved before the trial Court and the Appellate Court, and the entry in the khatian with respect to the subject land showed the said land to be in permissive occupation of the appellants, the appellants cannot claim title to the land. They cannot also plead bar of limitation on account of their continuous possession of the land for the reason that the Revenue record only shows permissive possession and they have not pleaded adverse possession or proved the same.

13. In the absence of evidence of the oral gift in favour of the appellants, it has to be presumed that without any right, title and interest, the appellants had built offices on the property belonging to the respondent and, therefore, the Court below had not committed any error in law in granting relief to the respondent against the appellants.

14. I, therefore, do not find any substantial question of law arising for consideration in the Second Appeal. I also hold that the well-reasoned judgments of the Courts below cannot be said to be perverse warranting interference in the restrictive jurisdiction of this Court under Section 100 CPC.

15. Therefore, the Second Appeal fails and is dismissed. No costs.

16. Send down the lower Court records forthwith.

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

(M.S. RAMACHANDRA RAO, CJ)

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