

**HIGH COURT OF TRIPURA
AGARTALA**

**I.A. No.04/2026 in CRP No.61/2025
CRP No.61/2025**

1. Smt. Rikta Majumder, W/O. Lt. Tapan Majumder, resident of Shib Bari Road, Near Mahadeb Bari, P.S.-R.K. Pur, Udaipur, District-Gomati Tripura.
2. Sri Arindam Majumder, S/O. Lt. Tapan Majumder, resident of Shib Bari Road, Near Mahadeb Bari, P.S.-R.K Pur, Udaipur, District-Gomati Tripura.
3. Smt. Munmun Bhattacharjee, W/O. Sri Tirthankar Bhattacharjee, D/O. Lt. Tapan Majumder, resident of Gangothri Galaxy, Room no.403, 4th Floor, 4th Cross, 1st main Umarbagh Layout, Bangalore, Karnataka-560078.

..... Applicant/Petitioner(s).

V E R S U S

1. Sri Nepal Bhawal, S/O. Sri Nibaran Bhawal, resident of Vill.-Tepania, P.S.-R.K. Pur, Udaipur, District-Gomati Tripura.
2. Sri Jayanta Debnath, S/O. Sri Suman Debnath, resident of vill.-Tepania, P.S.-R.K. Pur, Udaipur, District-Gomati Tripura.
3. Sri Ranjit Debnath, S/O. Lt. Surendra Debnath, resident of Vill.-Tepania, P.S.-R.K Pur, Udaipur, District-Gomati Tripura.
4. Smt. Sikha Rani Saha (Sarkar), W/O. Sri Dashu Sarkar, Resident of Vill.-Dhajanagar, P.S.-R.K Pur, Udaipur, District-Gomati Tripura.
5. Smt. Anamika Chakraborty (Bhowmik), W/O. Sri Biswajit Chakraborty, Resident of Vill.-Gokulpur, P.S.-R.K. Pur, Udaipur, District-Gomati Tripura.
6. Sri Dilip Debnath, S/O. Lt. Haricharan Debnath, resident of Vill.-Tepania, P.S.-R.K. Pur, Udaipur, District-Gomati Tripura.
7. Sri Sabyasachi Chakraborty, S/O. Sri Samarendra Chakraborty, resident of Vill.-Tepania, P.S.-R.K Pur, Udaipur, District-Gomati Tripura.
8. Sri Ajoy Chakraborty, S/O. Lt. Tushar Kanti Chakraborty, Resident of Vill.-Dhajanagar, P.S.-R.K. Pur, District-Gomati Tripura.
9. Smt. Rinku Sarkar (Saha), W/O. Sri Lokesh Saha, Resident of Durlab Narayan, P.S.-Sonamura, District-Sepahijala Tripura.
10. Sri Swapan Debnath, S/O. Lt. Chandra Kumar Debnath, resident of Vill.-Tepania (Madhyapara), P.S.-R.K. Pur, Udaipur, District-Gomati Tripura.
11. Smt. Kunjalata Debnath, W/O. Lt Dulal Debnath, resident of Vill.-Tepania (Madhyapara), P.S.-R.K. Pur, Udaipur, District-Gomati Tripura.
12. Smt. Titu Debnath, W/O. Abhijit Debnath, D/O. Lt. Dulal Debnath, resident of Vill.-Tepania (Madhyapara), P.S.-R.K. Pur, Udaipur, District-Gomati Tripura.
13. Smt. Mithu Rani Debnath, W/O. Manik Debnath, D/O. Lt. Dulal Debnath, resident of Vill.-Tepania (Madhyapara), P.S.-R.K. Pur, Udaipur, District-Gomati Tripura.

14. Smt. Dipti Acharjee (Debnath), W/O. Lt. Jhutan Debnath, resident of Vill.-Tepania (Madhyapara), P.S.-R.K. Pur, Udaipur, District-Gomati Tripura.
15. Smt. Drishti Debnath (Minor), D/O. Lt. Jhutan Debnath, resident of Vill.-Tepania (Madhyapara), P.S.-R.K. Pur, Udaipur, District-Gomati Tripura.
16. Sri Hiran Debnath, S/O. Lt. Chandra Kumar Debnath, resident of Vill.-Tepania (Madhyapara), P.S.-R.K. Pur, Udaipur, District-Gomati Tripura.
17. Sri Pintu Debnath, S/O. Lt. Lalit Mohan Debnath, resident of Vill.-Tepania (Madhyapara), P.S.-R.K. Pur, Udaipur, District-Gomati Tripura.
18. Sri Jhantu Debnath, S/O. Lt. Lalit Mohan Debnath, resident of Vill.-Tepania (Madhyapara), P.S.-R.K. Pur, Udaipur, District-Gomati Tripura.
19. Smt. Marani Debnath, W/O. Sri Manu Debnath, D/O. Lt. Chandra Kumar Debnath, Resident of Vill.-Tepania (Pal Para), P.S.-R.K. Pur, Udaipur, District-Gomati Tripura.
20. Smt. Priyabala Debnath, W/O. Lt. Nagendra Debnath, D/O. Lt. Chandra Kumar Debnath, Resident of Vill.-Tepania (Madhya Para), P.S.-R.K. Pur, Udaipur, District-Gomati Tripura.

.....Respondent(s).

For Applicant/Petitioner(s) : Ms. Ruchika Rathi, Advocate,
Mr. Karnajit De, Advocate.

For Respondent(s) : None.

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

Date of hearing & judgment : **10.02.2026.**

Whether fit for reporting : **NO.**

JUDGMENT & ORDER (ORAL)

I.A. No.04/2026 in CRP No.61/2025:

The instant interlocutory application for acceptance of additional documents, is ordered.

I.A. stands disposed of.

CRP No.61/2025:

Heard Ms. Ruchika Rathi, counsel for the petitioners.

2. This Revision is filed challenging the judgment dt.19.05.2025 of the Civil Judge, Senior Division, Court No.2, Gomati District, Udaipur in case No. Civil Misc.25 of 2024.

3. The said Civil Misc. 25 of 2024 was an application filed under Section 144 of the Code of Civil Procedure (CPC, for short) for restitution of a portion of the land allegedly illegally recovered from the possession of the petitioners and handed over to the respondents/plaintiffs, which was allegedly beyond the decretal land of the final decree dt.10.03.2021 arising in suit no. T.S.(P) 09 of 2015.

4. The petitioners herein are the legal representatives of the deceased defendant No.5 in the suit. The defendant No.5 was Late Tapan Majumder. He appears to have purchased 0.90 acres of land from one Manilal Sarkar on 11.04.1985 within specified boundaries.

5. Though the suit for partition filed by the plaintiffs was initially dismissed on 20.06.2017, when they filed T.A. No.17 of 2017, the District Judge, Gomati District, Udaipur allowed the appeal on 03.01.2019, and passed a preliminary decree allotting to the deceased 5th defendant, 90/558th share in the suit schedule properties.

Though he filed RSA No.36 of 2019, the same was dismissed by this Court.

5A. Thereafter, an application to pass a final decree was filed, and a Survey Commissioner was appointed. He filed a report. The Survey Commissioner appointed demarcated the decretal land and allotted shares to the co-sharers which included a portion of land measuring 0.90 acres which had been purchased by Tapan Majumder.

6. The petitioners challenged the Survey Commissioner's report and by the order dt.02.03.2021, the said report was accepted rejecting the objections raised by the petitioners. They did not challenge this order in Appeal or Revision and it attained finality.

7. Thereafter, the final decree was drafted on 12.01.2021 as per the Survey Commissioner's report.

8. Thereafter, the decree holders/plaintiffs filed Execution Petition before the Civil Judge, Senior Division, Gomati which was numbered as Execution(T) No.09 of 2021. The land which was to be allotted to the deceased defendant No.5 as per the final decree was mentioned in Schedule-H thereto.

9. The petitioners filed objection under Section 47 of CPC which was rejected by the Executing Court on 08.01.2024 in Civil Misc.-22 of 2023. They then filed an application under Order XXI Rule 26 of CPC, but the Executing Court also rejected it and accepted the report filed by the Bailiff and the Survey Commissioner.

10. Thereafter, Civil Misc. No.25 of 2024 was filed by the petitioners under Section 144 of CPC for restitution of a portion of land allegedly illegally recovered from the possession of the petitioners and handed over to the respondents/decreed holders.

11. After contest, the said application had also been dismissed on 19.05.2025.

12. Challenging the same, this Revision is filed.

13. The principal contention of the counsel for the petitioners is that the petitioners, who are claiming through Tapan Majumder, 5th defendant,

should be allotted 0.90 acres which Tapan Majumder had purchased under the sale deed dt.11.04.1985 from Manilal Sarkar and he cannot be allotted some other land and the petitioners cannot be deprived of the land which is covered by the said sale deed.

14. The Executing Court rejected the said plea referring to the judgment in T.A. No.17 of 2017 where a finding was recorded that the land purchased by Tapan Majumder formed part of joint property, that it was only competent for the co-sharer to sell or transfer his "share", but not any "particular piece of land" to a third party purchaser. The Executing Court recorded that when the said joint property is partitioned, the third party purchaser cannot claim ownership or possessory rights over any particular parcel of land as he is also bound by the final decree passed by the Court.

15. I am in complete agreement with the reasoning given by the Executing Court.

Admittedly, in the final decree passed on 12.01.2021, the petitioners herein were not allotted 0.90 acres of land which was covered by the sale deed dt.11.04.1985 executed in favour of Tapan Majumder by Manilal Sarkar. The said final decree had not been challenged by either Tapan Majumder or the petitioners and has attained finality.

16. The Executing Court cannot go behind the final decree. Once the final decree dt.12.01.2021 had attained finality, in Execution Proceedings, it is not open to the petitioners to contend that the petitioners should be allotted only the land covered by the sale deed dt.11.04.1985 and not other land. As pointed out above, petitioners had already been allotted in the final decree

Schedule-H land, a different parcel of land of the same extent 0.90 acres but not the same land which is covered by the sale deed dt.11.04.1985.

17. The only attempt of the petitioners appears to be to delay the execution of the decree and keep on raising disputes one after the other once under Section 47 CPC and later by filing an application under Section 144 of CPC.

18. I do not find any error of jurisdiction in the order passed by the Civil Judge, Senior Division, Court No.2, Gomati District, Udaipur in case No. Civil Misc. 25 of 2024 arising out of T.S.(P) No.09 of 2015.

19. Therefore, this Revision is dismissed. No costs.

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

(M.S. RAMACHANDRA RAO, CJ)

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