

**HIGH COURT OF TRIPURA
AGARTALA**

RSA No.38 of 2025

1. Sri Arjun Malakar, aged 58 years, S/O. Late Rasaraj Malakar, resident of Sankarpur, P.O.-Muhuripur, P.S.-Baikhora, Sub-Division-Santirbazar, District-South Tripura.

2. Sri Arun Malakar, aged 56 years, S/O. Late Rasaraj Malakar, resident of Sankarpur, P.O.-Muhuripur, P.S.-Baikhora, Sub-Division-Santirbazar, District-South Tripura.

3. Sri Anjan Malakar, aged 53 years, S/O. Late Rasaraj Malakar, resident of Sankarpur, P.O.-Muhuripur, P.S.-Baikhora, Sub-Division-Santirbazar, District-South Tripura.

..... Appellant(s).

V E R S U S

1. Smt. Usha Rani Pal, W/O. Late Anil Chandra Pal, resident of Muhuripur R/F, P.O.-Muhuripura, P.S.-Baikhora, District-South Tripura.

2. Smt. Sachi Rani Pal, D/O. Late Anil Chandra Pal, W/O. Dulal Chandra Pal, resident of West Charakbai, P.S.-Baikhora, District-South Tripura.

3. Smt. Ganga Pal Aich, D/O. Anil Chandra Pal, W/O. Amar Aich, resident of Santirbazar, P.S.-Santirbazar, District-South Tripura.

4. Smt. Jamuna Pal(Sur), W/O. Utpal Sur Ch. Pal, resident of Sur Para, Santirbazar, P.S.-Santirbazar, District-South Tripura.

5. Smt. Meghna Pal(Bhowmik), W/O. Somen Bhowmik, resident of Joypur, P.S.-Belonia, District-South Tripura.

6. Smt. Karna Pal(Majumder), D/O. Anil Chandra Pal, W/O. Ajit Majumder, resident of Muhuripur RF, P.S.-Baikhora, District-South Tripura.

..... Respondent(s).

For Appellant(s)	: Mr. Debalay Bhattacharya, Sr. Advocate, Mr. Samar Das, Advocate, Mr. Agniva Chakraborty, Advocate.
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For Respondent(s)	: None.
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HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO

CAV reserved on : **12.12.2025.**

Judgment delivered on : **20.01.2026.**

Whether fit for reporting : **NO.**

JUDGMENT & ORDER

Heard Mr. Debalay Bhattacharya, learned senior counsel assisted by Mr. Samar Das, counsel appearing for the appellants.

2. This Second Appeal is preferred against the judgment and decree dt.27.08.2025 of the Additional District Judge, South Tripura, Belonia in Title Appeal No.08 of 2024 confirming the judgment and decree dt.26.07.2024 of the Civil Judge (Junior Division), Court No.2, Belonia, South Tripura in Title Suit No.07 of 2022.

The background facts:

3. The appellants are the defendants in this suit.

4. The respondents/plaintiffs had filed the said suit to declare their right, title and interest over the Schedule-A suit land of extent 2.61 acres (for short 'the suit land') and for a recovery of possession of the same by evicting the appellants therefrom and by removing all obstructions.

5. The respondents/plaintiffs contended that this land had been allotted in favour of the respondent No.1 and her husband by an Allotment Authority wherein they had planted a rubber plantation and that the appellants on 16.09.2021 forcibly dispossessed them from the suit land.

6. According to the respondents, there was a Revisional Survey after which the Allotment Authority found the respondent No.1 and her husband to be in possession of the said land and allotted it in their favour and also created a Khatian in their name which was published as Khatian No.461. The respondents contended that they are all ladies, that there was no male member in their house and that they are also married and residing with their husbands in different addresses and only respondent No.1 was in the property,

but she, other inmates, relatives and neighbours could not resist the dispossession by the appellants.

7. Written statement was filed by the appellants contending that the respondents are not lawful owners of the suit land and that they were not in possession of the same at any point of time. They also denied that the land was allotted to the respondent No.1 and her husband. According to them, the respondent No.1 and her husband managed to obtain a Khatian No.461 without any order of allotment and the said Khatian had been prepared without following the process of law. They also denied forceful dispossession of the respondents on 16.09.2021.

8. According to the appellants, they were all in occupation of the suit land since 40 years knowing it to be Government Khas land, that they reclaimed it by hard labour and planted rubber and other valuable plantations on it and the respondents falsely claimed that they were in possession of the said and claimed that they had been forcibly dispossessed on 16.09.2021.

The judgments of the Court below:

9. By a judgment dt.26.07.2024, the Civil Judge (Junior Division), Court No.2, Belonia, South Tripura (Trial Court) decreed the suit as prayed for.

10. The trial Court held that Khatian No.461 supports the respondents' claim of title over the suit Schedule land since it was finally published and it shows that the suit land was recorded in the name of the respondent No.1 and her late husband; that other respondents are daughters of respondent No.1; as per Section 43(3) of the Tripura Land Revenue and Land Reforms Act, 1960, every entry in Record of Rights as finally published has to

be presumed to be correct, until the contrary is proved; though the appellants contended that they were in possession of the suit land for 40 years and had also raised rubber plantation thereon, no documentary evidence has been produced in support of the same.

11. It held that if the appellants had indeed been in possession of the suit land for 40 years, there would be some documents at least to show that they were in possession of the same for such a long time. Since there was no contrary evidence adduced by the appellants about their title and possession of the suit land and since the Record of Rights i.e., the Khatian No.461 supports the claim of the respondents, the respondents were entitled to relief in this suit.

12. Questioning the same, the appellants filed Title Appeal No.08 of 2024 before the Additional District Judge, South Tripura, Belonia.

13. The Lower Appellate Court also confirmed the findings of the trial Court and dismissed the appeal. It also relied on the Khatian No.461, which is the Record of Rights, indicating the allotment of the land to the respondent No.1 and her late husband. It also held that the appellants had failed to disprove or rebut the documentary evidence of the respondents and that there is a presumption in favour of the validity of the Khatian No.461. The lower Appellate Court also held that there was no evidence to show that suit land was Government Khas land as was being contended by the appellants, and that the evidence adduced by the respondents shows that the land was allotted to respondent No.1 and her husband. It, therefore, held that the findings of the trial Court did not warrant any interference in the Appeal.

14. Challenging the same, the Second Appeal is filed.

Consideration by the Court:

15. It is not disputed by the counsel for the appellants that there are concurrent findings of fact rendered by the trial Court as well as the First Appellate Court that the suit land had been allotted to the respondent No.1 and her late husband and that there was an entry in the Khatian No.461 by the Revenue Authorities after a Revisional Survey also. Both Courts have held that there is a presumption in favour of Record of Rights under Section 43(3) of the Act and unless the said presumption is rebutted by the appellants, they cannot succeed. In my opinion, the appellants had failed to do so, by proving that the land was Government Khas land as is being claimed by them or that they were in possession thereof for 40 years as was being contended by them, I therefore do not find any reason to interfere with the judgments of the Court below.

16. Accordingly, the Regular Second Appeal is dismissed. No costs.

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

(M.S. RAMACHANDRA RAO, CJ)

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