

**HIGH COURT OF TRIPURA
AGARTALA**

L.A. APP 56 OF 2025

- 1. Sri Namangi Choudhury**, son of It. Afruchi Choudhury, resident of Jolaibari, P.O. Jolaibari, P.S. Baikhora, Santirbazaar, District- South Tripura;
- 2. Sri Chaisafu Choudhury**, son of Namangi Mog, resident of Jolaibari, P.O. Jolaibari, P.S. Baikhora, Santirbazaar, District- South Tripura;
- 3. Sri Mati Mog**, son of It. Kochi Mog Choudhury, resident of Jolaibari, P.O. Jolaibari, P.S. Baikhora, Santirbazaar, District- South Tripura;
- 4. Sri Chailafu Mog Choudhury**, son of It. Kochi Mog Choudhury, resident of Jolaibari, P.O. Jolaibari, P.S. Baikhora, Santirbazaar, District- South Tripura;
- 5. Smt. Uma Mog Choudhury**, wife of Kyajaiu Mog Choudhury, resident of Jolaibari, P.O. Jolaibari, P.S. Baikhora, Santirbazaar, District- South Tripura;
- 6. Sri Kangjari Mog Choudhury**, son of It. Keuching Mog Choudhury, resident of Jolaibari, P.O. Jolaibari, P.S. Baikhora, Santirbazaar, District- South Tripura;
- 7. Sri Anu Choudhury**, son of It. Keuching Choudhury, resident of Jolaibari, P.O. Jolaibari, P.S. Baikhora, Santirbazaar, District- South Tripura;
- 8. Sri Thaifru Mog Choudhury**, son of It. Doang Mog Choudhury, resident of Jolaibari, P.O. Jolaibari, P.S. Baikhora, Santirbazaar, District- South Tripura;
- 9. Sri Painu Mog Choudhury**, son of Uchimong Mog Choudhury, resident of Jolaibari, P.O. Jolaibari, P.S. Baikhora, Santirbazaar, District- South Tripura;
- 10. Sri Angkyajai Mog Choudhury**, son of Usi Mog Choudhury, resident of Jolaibari, P.O. Jolaibari, P.S. Baikhora, Santirbazaar, District- South Tripura;
- 11. Smt. Mrachainda Mog**, wife of It. Apoya Mog, resident of Jolaibari, P.O. Jolaibari, P.S. Baikhora, Santirbazaar, District- South Tripura;
- 12. Smt. Ukrachu Mog**, wife of It. Angla Mog, resident of Jolaibari, P.O. Jolaibari, P.S. Baikhora, Santirbazaar, District- South Tripura;
- 13. Smt. Chinu Mog**, wife of Mama Mog, resident of Jolaibari, P.O. Jolaibari, P.S. Baikhora, Santirbazaar, District- South Tripura;
- 14. Smt. Umrachu Mog Tripura**, wife of Thingjai Tripura, resident of Jolaibari, P.O. Jolaibari, P.S. Baikhora, Santirbazaar, District- South Tripura;

15. Sri Chafu Mog, son of Ugychai Mog, resident of Jolaibari, P.O. Jolaibari, P.S. Baikhora, Santirbazaar, District- South Tripura;

16. Smt. Minu Mog, wife of Mongsajai Mog, resident of Jolaibari, P.O. Jolaibari, P.S. Baikhora, Santirbazaar, District- South Tripura;

17. Sri Apachi Mog, wife of It. Ugyajai Mog, resident of Jolaibari, P.O. Jolaibari, P.S. Baikhora, Santirbazaar, District- South Tripura;

----Second Party-Appellants

Versus

1. Sri Kalipada Biswas, son of late Jamini Kanta Biswas, resident of Jolaibari, P.O. Jolaibari, P.S. Baikhora, District-South Tripura;

.... First Party-Respondent

2. The ADM & Collector, South Tripura, Belonia.

---- Competent Authority

For Appellant(s)	:	Mr. DR Chowdhury, Sr. Advocate Ms. S. Chaudhuri, Advocate
For Respondent(s)	:	Mr. A. Bhaumik, Advocate
Date of hearing & delivery of Judgment & Order	:	09.03.2026
Whether fit for reporting	:	Yes

BEFORE
HON'BLE JUSTICE DR. T. AMARNATH GOUD
Judgment & Order (Oral)

This is an appeal preferred by the First Party-appellants being aggrieved by the judgment and award dated 14.02.2025 passed by the learned Additional District Judge, South Tripura, Belonia, in case No. NH(Ref.) 01 of 2022, for granting apportionment of the award in 50% share each to the Second party Appellants and First Party Respondent. In filing the appeal, the following reliefs are sought for:

"..admit this Appeal and would very kindly set aside and quash the impugned judgment and award granting 50% share of the compensation to the First Party Respondent and would be so kind to award the entire amount of compensation amounting of Rs.23,10,169 along with other benefits as per provisions of NH Act

read with section 187 of TLR & LR Act with interest at the rate of 10% per annum till the date of taking over possession of the acquired land to the Second Party Appellants."

2. Facts of the case, as projected by learned trial court, in short, is that, the competent authority has acquired a land measuring 0.0501821 hector for the purpose of widening Jolaibari-Belonia National Highway No.108(A) in terms of section 3A of NH Act vide L.A. Case No. 02/STB/2020. After acquisition the competent authority has awarded an amount of Rs.23,10,169/- towards compensation in terms of section 3G of NH Act read with section 37 of RFCTLARR Act. Since there was dispute as to the apportionment of the amount of compensation so awarded, the matter was referred to Principal Civil Court in South Tripura District taking recourse to section 3H(4) of the NH Act. The First party-petitioner, i.e. the respondent herein, claimed to have purchased 0.150 decimal of land from a part of the acquired land on the strength of an unregistered sale deed in 1968 and was in possession thereof immediately before taking possession by the acquiring department. Accordingly, name of the first-party petitioner has been entered in column No.16 of the Record of Right. The first-petitioner respondent contended that he has constructed huts roofing with GCI sheets on the said part of acquired land and his purchased area was also fenced with GCI sheets. It was also contended that during survey, the competent authority did not find the second-party-appellants in possession thereof and, as such, the entire amount of compensation was paid to the first-party-petitioner i.e. the respondent herein, but the

second-party-appellants did not raise any objection. It is further stated that earlier a part of land was acquired from the predecessor of the second-party-appellants, namely, Afruchi Choudhury vide LA case No.06/BEL/85 where the first party-respondent being occupier thereon, compensation to the tune of Rs.6,412.50/- was paid on 05.06.1986. The predecessor of the second-party-appellants also did not raise objection to such payment. It has been further stated that for the purpose of construction of Jolaibari to Muhuripur road two other acquisition were done and the first-party-respondent being in possession thereof, compensation was paid to him. It is, therefore, stated that title of the second-party-respondents over the acquired land stands extinguished. On the other hand, the second-party-appellants through their claim petition has contended that they are indigenous people and belong to Scheduled Tribe community and are entitled to restore the possession of land owned by them, if occupied by persons who is not a Scheduled Tribe as per section 187 of the Tripura Land Revenue and Land Reforms Act, 1960, herein after referred as TLR & LR Act. It is therefore stated that the first-party-respondent not being a member of Scheduled Tribe community occupied the acquired land and claiming unlawful possession there-over in violation of provisions of TLR & LR Act. The second-party-appellants claimed to have absolute title over the acquired land and as such they are entitled to get the entire amount of compensation so awarded by the competent authority.

3. Heard Mr. DR Choudhury, learned senior counsel assisted by Ms. S. Chaudhuri, learned counsel appearing for the appellants. Also heard Mr. A. Bhaumik, learned counsel appearing for the first party-respondent.

3. It is the contention made by the learned senior counsel for the second party-appellants (appellants, for short), that the predecessor of the appellants, being of tribal community, had been cultivating over the acquired land since the era of Maharaja so the property became beyond the ceiling limit and they have become raiyati directly and got the khatian without any document and only by a notification. It has also been submitted that the predecessor of the appellants used to pay revenue to the Maharaja. He has also contended that the learned court below violating the mandatory provisions of section 46, Section 126, Section 134, Section 135, Section 136, Section 137 of the TLR & LR Act. The computerized has subsequently made after revised survey and before that survey i.e. before 1956, the land was under possession of the predecessor of the appellants named in the khatian. It has further been submitted that the allotted khatian is not based on any sale deed and the khatian itself has been given by the SDM vesting allotment of the land to the person named in the khatian in absence of any sale deed or any document. It is further submitted that allotted khatian should be treated as point of title and possession. He has further submitted that at no point of time the appellants or their predecessor had transferred any portion of

land to the respondent. Learned Counsel has also submitted that the compensation has been passed violating the provisions of TLR & LR Act and also the provisions of RFCTLARR Act, 2013. Learned counsel also has relied upon the decisions rendered by a learned Single Judge of this High Court in ***Abdul Chattar Miah vs. State of Tripura & ors***, reported in **2021 (2) TLR 403**; TLR Vol.2, Part.

4. I have perused the entire record including the judgment and award passed by the learned Tribunal.

5. At the very outset, this court is of the view that title deed is a fundamental legal document required to prove ownership of land, which is a crucial evidence that establishes a person's right over a property. In the instant case, the learned trial Judge has categorically observed that the 1st party petitioner i.e. the respondent herein was in possession of the part of the acquired land in total violation of the prohibitions contemplated under Section 187 of the TLR & LR Act. In terms of Section 187 of the Act. A member of a Scheduled Tribe cannot transfer land to a non-ST person without the prior written consent of the Collector. The learned trial Judge has further opined that the 2nd party petitioners i.e. the appellants herein, also did not raise any objection prior to such acquisition and also did not apply for any restoration of the acquired land. Neither the appellants nor the respondent herein could establish their ownership right over the acquired land. The burden of proof regarding ownership of the

disputed/acquired land lies upon the appellants herein, which they have failed to substantiate, either documentary or evidentiary. There is no dispute that the respondent belongs to of non-tribal community whereas the appellants are belongs to tribal community. Further, from the record it is evidently clear that the khatian (Exbt. A(i) to A(ii) proved by the appellants reflects the name of the respondent herein to have entered his name in column No. 16 against the acquired plot of land as a transferee in terms of Section 187 of TLR & LR Act, and thereafter he has made a structure on the said plot, so acquired. None of the parties could establish their legal ownership by means of any title deed. For convenience, Section 187 of the TLR & LR Act is reproduced hereunder:

"187. Special provision regarding Scheduled Tribes.

No transfer of land by a person who is a member the Scheduled Tribes shall be valid unless-

(a)the transfer is to another member of the Scheduled Tribes; or

(b)where the transfer is to a person who is not a member of any such tribe, it is made with the previous permission in writing of the Collector; or

(c)the transfer is by way of, mortgages to a co-operative society."

6. It is manifest, therefore, that the suit cannot be decided without deciding the questions of fact noted above. The trial court has rightly pointed out that the appellants herein cannot produce any satisfactory evidence to prove their ownership by way of any title deed nor the respondent herein can prove his title though he was in possession on the part of the acquired land in violation of Section 187 of the TLR & LR Act. Undisputedly no such measurement was being carried out by the learned trial court to examine the title deed prior to determining the compensation. In this aspect, whatever learned senior counsel for the appellant has

argued nothing has been reflected either in the pleadings nor before the trial court. For the first time, he has advanced this argument and without any documentary evidence. There is no proper authority from the Government to acknowledge his argument and even there is no issue under the statute. Further, the appellants have not gone before the concerned Civil Court to say that they are in adverse possession and whatever the possession they are claiming and since there is no acknowledgement or recommendation or appropriate order from the appropriate court or authority, it cannot be said there the appellants cannot be considered as raiyati and they are in adverse possession and in turn their possessory right and interest is involved. Thus, at this stage, this court is of the view that the submission of learned senior counsel cannot be accepted and the authorities rendered by learned senior counsel is not relatable to the instant case. This court can keep it open that if they feel that they are in long standing property, they are at liberty to approach the Civil Court or any appropriate authority under the statute to seek any remedy of apportionment of their land.

7. In ***Meher Singh vs. State of Haryana***, reported in 2025 INSC 407, it has been held that *the court emphasized that where the facts regarding possession and title are "shrouded in mystery" or based on overruled legal precedents, the appellate court should not decide the matter finally if the record is insufficient*".

8. In **Govt. of NCT of Delhi vs. BSK Realtors LLP & anr.** reported in (2024) 7 SCC 370 (paras 7402 and 78), it has been categorically held that *the court emphasized that where the facts regarding possession and title are "shrouded in mystery" or based on overruled legal precedents, the appellate court should not decide the matter finally if the record is insufficient*".

7. Proving of ownership is essential for obtaining land acquisition compensation, as compensation is only awarded to the rightful owner under the Right to Fair Compensation and Transparency in Land Acquisition Act, 2013 (for short, RFCTLARR Act, 2013). Here the appellants ought to have provided cogent evidence to establish their title and ownership beyond just registration. Before making a land acquisition award under the RFCTLARR Act, 2013, the Collector must undertake several mandatory steps to ensure that the process is lawful, transparent, and fair and essentially and mandatorily the Collector shall verify the ownership of land before making such award, particularly under the Act, 2013, to avoid any litigation complicity. Both TLR & LR Act and the RFCTLARR Act, 2013, share fundamental similarities in the procedural approach of verifying land ownership before passing an award. Admittedly, the names of the appellants or their predecessor in this case have not been entered in the revenue record, and they have not been able to show any right, title or interest in the property and also that there is no explanation from the appellants for not having raised their claims.

Further, it is borne out from the materials placed on record that before acquisition, the land in question has been occupied by the respondent only by a structure violating the provisions of Section 187 of the TLR & LR Act and in that respect the appellants herein failed to raise any objection to substantiate their ownership by placing any documentary evidence.

8. In **Meher Singh vs. State of Haryana**, reported in 2025 INSC 407, it has been held that *the court emphasized that where the facts regarding possession and title are "shrouded in mystery" or based on overruled legal precedents, the appellate court should not decide the matter finally if the record is insufficient*". Further, in **Govt. of NCT of Delhi vs. BSK Realtors LLP & anr.**, reported in (2024) 7 SCC 370, it has been held that *compensation is only payable to those who have a "valid and legal" title at the time of Section 4 notification*". In the case in hand, it is evidently clear that the appellants have miserably failed to establish their ownership over the acquired land by producing valid and legal title deed.

9. In the upshot, the instant appeal stands dismissed which is devoid of merits.

10. However, the appellants are at liberty to avail statutory remedies ventilating their grievances before the appropriate Civil Court. It is made clear that on filing of any such petition, learned trial court shall frame an issue on the point of title deeds to decide the ownership and thereafter give an opportunity to both sides

and decide the matter by adducing evidences as per procedure. The appellants are also at liberty to produce their original documents to substantiate their ownership in respect of their case. It goes without saying that if the appellants are able to establish their locus standi and/or title, and they are found entitled to receive compensation on the basis of a valid title, they would be entitled to the same, but if they fail to prove their ownership, they shall not be paid a single rupee from the government exchequer, as no unauthorized person is entitled for any bonanza.

11. It is further made clear that till any decision is taken by learned trial court in respect of the share, the amount already decided shall not be disbursed because it is public money and the same shall be protected lawfully.

12. As a sequel, pending application(s), if any, also stands disposed.

JUDGE

SAIKAT KAR

Digitally signed by
SAIKAT KAR
Date: 2026.03.12
18:23:33 -04'00'