

THE HIGH COURT OF TRIPURA AGARTALA

RFA 13 of 2008

1. **Sri Tapas Kanti Dey**
2. **Sri Swarup Kanti Dey**
3. **Sri Swapan Kanti Dey**

All are the sons of
Late Lalit Mohan Dey
All are residents of Old Kalibari Lane,
Agartala, Krishnanagar,
Police Station-West Agartala,
District-West Tripura.

.....Defendant-Appellants

VERSUS

1. **Smt. Dulu Dey**
W/O Lt. Harimohan Deb alias Dey
Resident of Old Kalibari Lane,
Krishnanagar, Agartala.
2. **Sri Subhash Dey,**
Son of Lt. Harimohan Deb alias Dey
Resident of Magdi Road, 2nd Crossing,
Bangalore-560023, Karnataka
3. **Smt. Rama Sarkar (Dey),**
W/O Sri Jaharlal Sarkar,
resident of Ramnagar Road No. 8,
Agartala, PS West Agartala,
District- West Tripura
4. **Smt. Sukla Roy (Dey),**
W/O Sri Anjan Roy
Resident of Akhaurah Road,
Agartala, P.S. West Agartala,
District-West Tripura.
5. **Smt. Gouri Nandi (Dey),**
W/O Sri Chandan Kr. Nandi,
resident of Joynagar Road No. 6,
Agartala, PS West Agartala,
District-West Tripura.
6. **Smt. Gopa Chowdhury (Dey),**
W/O Sri Sankar Chowdhury,
resident of Ramnagar Road No. 10,
Agartala, PS West Tripura,
District-West Tripura.

.....Plaintiff-Respondents

B E F O R E
THE HON'BLE MR. JUSTICE U.B. SAHA

For the appellants	: Mr. P Roy Barman, Advocate Mr. S Bhattacharji, Advocate
For the respondents	: Mr. DR Choudhury, Advocate Mr. D Deb, Advocate
Date of hearing and delivery of Judgement & Order	: 29.06.2015.
Whether fit for reporting	: No

JUDGMENT & ORDER (ORAL)

The instant appeal is filed under Section 96 read with Section 97 of the Code of Civil Procedure challenging the final decree dated 1th August, 2008 passed by the learned Civil Judge, Sr. Div. Court No. 1, West Tripura, Agartala in Title (Partition) Suit No. 25/2005.

2. Heard Mr. P Roy Barman, learned counsel for the appellants as well as Mr. DR Choudhury, learned counsel for the respondents.

3. When the matter is taken up for hearing, Mr. Choudhury raised the preliminary objection to the question of maintainability of the instant appeal.

4. Admittedly, the instant appeal is filed without preferring appeal against the preliminary decree and according to him, such an appeal is barred by Section 97 of the Code of Civil Procedure wherein it is specifically stated that where any party aggrieved by a preliminary decree passed after the commencement of this Code does not appeal from such decree, he shall be precluded from

disputing its correctness in any appeal which may be preferred from the final decree.

5. Mr. Roy Barman, learned counsel appearing for the appellants also agreed to the aforesaid contention.

6. In view of the above, it is not necessary for this Court to discuss about the merit of the impugned judgment.

7. Accordingly, the instant appeal is dismissed being not maintainable in view of the provisions of Section 97 of the Code of Civil Procedure.

8. The appeal is dismissed. Send down the LCR.

JUDGE