

IN THE HIGH COURT OF TRIPURA
AGARTALA

R.S.A. No. 03 of 2010

- 1. Smt. Fulan Rabidas**
wife of late Ratan Rabidas
- 2. Smt. Putul Rabidas,**
wife of late Lalmohan Rabidas
- 3. Smt. Purnima Rabidas,**
wife of late Mahesh Rabidas
- 4. Shri Jaharlal Rabidas,**
son of late Matilal Rabidas
- 5. Shri Swapan Rabidas,**
son of late Ratan Rabidas

All are residents of village &
P.O. Tepania, P.S. R.K. Pur,
District- South Tripura

..... **Appellants**

- V e r s u s -

Shri Matilal Debnath,
son of late Prakash Chandra
Debnath, resident of Village and
P.O. Tepania, P.S. R.K. Pur,
District- South Tripura.

..... **Respondents**

B E F O R E
THE HON'BLE MR. JUSTICE S. TALAPATRA

For the appellants : Mr. A. Dasgupta, Advocate
For the respondent : Mr. A. De, Advocate
Date of hearing : **12.02.2015**
& delivery of Judgment & order

Whether fit for reporting :

YES	NO
	√

JUDGMENT & ORDER (ORAL)

This is an appeal under Section 100 of the C.P.C.
questioning the legality of the judgment and decree dated

29.10.2009 delivered in Title Appeal No. 15 of 2008 by the District Judge, South Tripura, Udaipur, now Gomati Judicial District affirming the judgment and decree respectively dated 07.07.2008 & 08.07.2008 delivered in Title Suit No.04 of 2005 by the Civil Judge, Udaipur, South Tripura, now Gomati Judicial District.

[2] It is to be noted at the outset that this appeal is against the concurrent finding of fact to the effect that the defendants in their written statement as well as in the examination-in-chief admitted that the suit land has been separated from their plot and the said portion has been inserted in plot No.40 and has been mutated in the name of the plaintiff in Khatian No.1216, Exbt.2.

[3] This appeal was admitted by the order dated 25.06.2010 on the following substantial question of law:

(i) Whether the learned trial court can decide the right, title and interest over the suit land without appointing a survey commissioner to survey the suit land in order to ascertain whether the suit land is covered by the sale deed of the plaintiff or the defendants, when it is found that both the sides are demanding the suit land of their own right?

[4] Having regard to the said concurrent finding and no perversity having been attributed to such finding in the entire memorandum of appeal, this Court does not find any substance in the appeal and accordingly, this appeal stands dismissed.

Prepare the decree accordingly.

Send down the LCRs thereafter.

JUDGE

Sujay