

IN THE HIGH COURT OF TRIPURA
A G A R T A L A

R.S.A. No. 32 of 2010

Shri Basudeb Ghosh,
son of late Ananda Ghosh,
Village – Mashauli, P.O. & P.S.
Kumarghat, North Tripura

..... **Appellant**

- V e r s u s -

- 1. Shri Gobindalal Gope,**
son of late Gagan Ch. Gope,
Village – Laljuri, P.S. Kumarghat,
North Tripura
- 2. Shri Bhupendra Das,**
son of Shri Surendra Das,
- 3. Shri Sanjay Das,**
son of Shri Surendra Das,
- 4. Shri Binoy Das,**
son of Shri Surendra Das,

The respondents No.2,3 and 4 are
resident of village-Dharmanagarpara
(Mashauli), Sub- Division- Kailashahar,
P.S. Kumarghat, District – North Tripura

.....**Respondents**

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

For the appellant : Mr. G.K. Nama, Advocate

For the respondents : Mr. K. Nath, Advocate,

Date of hearing and delivery : **08.04.2015**
of Judgment & Order

Whether fit for reporting :

YES	NO
	√

JUDGMENT & ORDER (ORAL)

Heard Mr. G.K. Nama, learned counsel appearing for the appellant as well as Mr. K. Nath, learned counsel appearing for the respondents.

[2] This is an appeal under Section 100 of the C.P.C. questioning the legality of the judgment and decree dated 08.06.2010 delivered in Title Appeal No. 04 of 2009 by the District Judge, North Tripura, Kailashahar, now Unakoti Judicial District affirming the judgment and decree dated 03.02.2009 delivered in Title Suit No.14 of 2008 by the Civil Judge, Sr. Division, Kailashahar, North Tripura.

[3] It has been declared that the record of right in respect of the suit land standing in the name of the defendants is fraudulent and void. The questioned sale deed dated I-495 dated 05.05.2008 executed by the defendant No.1 in favour of the defendants No.2,3, & 4 has been cancelled by the appropriate decree. The plaintiffs' right, title and interest over the suit land have been declared. By the appropriate decree, it has been held and directed that the plaintiff is entitled to recover the possession of the suit land by evicting the defendants from the suit land.

[4] This appeal was admitted on 22.02.2011 on the following substantial questions of law as suggested by the appellant:

(i) Whether the learned trial Judge committed error by granting decree of recovery of possession in respect of the entire suit land;

(ii) Whether the learned trial Judge committed error by holding that the defendant No.1 i.e. the appellant did not acquire right, title, interest in respect of the suit land by way of adverse possession?

(iii) Whether the learned courts below committed error by granting a decree of recovery of possession without payment of proper Court Fee?

[5] Mr. G.K. Nama, learned counsel appearing for the appellant has fairly submitted that he would not press the substantial questions of law No. 1 and 2 as cited above, inasmuch as the appeal is primarily based on the substantial question of law that whether the decree of recovery that has been passed by the trial court and affirmed by the first appellate court can legally be sustained inasmuch as it is the admitted that though the suit was valued at Rs.1,50,000/- (Rupees one lakh fifty thousand) for recovery of the suit land but no court fees in terms of Section 7(V) of the Court-fees Act, 1870 has been paid by the plaintiffs. Mr. Nama, learned counsel appearing for the appellant has further submitted that such non-payment is deliberate.

[6] From the other side, Mr. K. Nath, learned counsel appearing for the respondents has submitted that due *ad valorem* court fee has been paid by the plaintiffs to the extent of Rs.2,890/- (Rupees Two thousand Eight hundred Ninety) in compliance to the order dated 23.07.2008 passed in Title Suit No.14 of 2008 and as

such, there is no substance in the contention that the plaintiffs did not pay the adequate court fees.

[7] For ascertaining the correct position, this Court has scrutinized the records and found that the *ad valorem* court fee as determined by the trial court has been paid by the plaintiffs, the respondents herein and as such, this appeal is devoid of merit and accordingly, the same stands dismissed.

Prepare the decree accordingly.

Thereafter, send down the LCRs.

JUDGE

Sujay