

THE HIGH COURT OF TRIPURA
AGARTALA

W. P.(C) No.287 of 2015

1. Smt. Laxmi Debbarma,
daughter of late Ramdayal Tripura,
wife of late Nirmal Debbarma,
resident of Bharat Sardar Para, Padmabil, Khowai,
P.S. Khowai, District – Khowai
2. Smt. Girija Debbarma,
3. Sri Samiran Debbarma,
both of them are sons of late Satish Debbarma @ Chowdhury
of Bharat Sardar Para, Padmabil, Khowai,
P.S. Khowai, District – Khowai
4. Smt. Rupali Debbarma (Marak),
daughter of late Satish Chowdhury,
resident of Kulai Nabagram,
P.S. Ambassa, District – Dhalai
5. Smt. Kanika Debbarma,
daughter of late Satish Debbarma,
resident of Kalyanpur,
P.S. Teliamura, District – Khowai
6. Smt. Rina Debbarma,
daughter of late Satish Chowdhury,
resident of Bharat Sardar Para, Padmabil, Khowai,
P.S. Khowai, District – Khowai
7. Smt. Theory Debbarma,
daughter of late Satish Chowdhury,
resident of Balaram,
P.S. Ambassa, District – Dhalai

.....Petitioners

- Vs -

1. The State of Tripura,
represented by the Secretary,
Revenue Department, Government of Tripura,
having his Office at New Secretariat Complex, Gurkhabasti,
P.O. Kunjaban, P.S. East Agartala,
Sub-Division - Agartala, District-West Tripura
2. The District Magistrate & Collector,
Gomati District, having his Office at R. K. Pur, Udaipur
3. The Additional District Magistrate & Collector,
Gomati District, having his Office at R. K. Pur, Udaipur
4. The Sub-Divisional Magistrate,
Amarpur, having his Office at Amarpur, Gomati, Tripura
5. The Deputy Collector & Magistrate,

Amarpur, Gomati District,
having his office at Amarpur, Gomati, Tripura

.....Official Respondents

6. Muslem Ahmed,
7. Saleh Ahmed,
8. Salim Ahmed,
9. Sayem Ahmed,
10. Manna Ahmed,
11. Shahena Begam,
12. Swapna Begam and
13. Mutaj Begam

all of them are sons and daughters of late Sultan Ahmed, of
Vill-Rangkang, P.S. Birganj, Sub-Division-Amarpur, District-
Gomati

.....Private Respondents

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

For the petitioners : Mr. Somik Deb, Advocate
For the respondents : Mr. B. C. Das, Advocate General
: Mr. B. Dutta, Advocate
Date of hearing and delivery : **10.08.2015**
of Judgment and order
Whether fit for reporting : **NO**

Judgment and Order (Oral)

Heard Mr. Somik Deb, learned counsel appearing for
the petitioners as well as Mr. B. C. Das, learned Advocate General
appearing along with Mr. B. Dutta, learned counsel for the
respondents.

02. In this writ petition, a short grievance falls for
consideration. By the impugned order dated 15.05.2014 delivered
in Revenue Case No.30/2011 under Section 95 of the Tripura Land
Revenue and Land Reforms Act, 1960, the Collector, Gomati
District has passed the following order:

"1st party stated that his father Lt. Sultan Ahammed purchased a piece of land measuring 2.235 acres from one Sri Satish Chowdhary, S/O. Lt. Ramdayal Chowdhary and executed a Regd. Deed with Satish Chowdhary in the year 1959 vide No.iv-4. Accordingly the aforesaid land was recorded in Khatian No.79 column No.23 Plot No.1518 prepared in the year 1967 as permissive possessor, but Mutation was not done in that period in favour of the purchaser i.e. Sultan Ahammed.

I have gone through the report of SDM, Amarpur, vide No.F.7(11)-SDM/AMP/REV/10/Vol-11/74 dated 19-04-2011, and DCM, Amarpur vide No.186, dated, 14-07-2010, it appears that the father of the applicant had purchased the aforesaid land from Satish Chowdhary, S/O. Lt. Ramdayal Tripura and a Regd. Deed was executed by Satish Chowdhary in favour of Sultan Ahammed, father of the applicant in the year 1968. The SDM, Amarpur also reported that Sultan Ahammed possessed the plot No.5070 with legitimate right and title over it prior 01-01-1969 and presently utilized the land falling under plot No.7030/9292 as a permissible possessor of Md. Abdul Khalek, S/O. Abdul Haque for which permission was given by Sultan Ahammed. The SDM, Amarpur proposed to delete the name entry in column No.16 of ROR No.1069/6 Hal Plot No.7030/9292 vide his report dated 19-04-2012 because the aforesaid land was transferred to Sultan Ahammed prior to 01-01-1969 and the name entry in column No.16, ROR No.1069/6 was wrongly recorded during Revisional Survey period.

Examined the report of SDM, Amarpur dated 19-04-2011 & dated 23-02-2012 and the case record i.e. ROR No.79 for the year 1967, Regd. Deed No.iv-14 dated, 29-02-1968 and Un regd. Deed executed by Satish Chowdhary, dated 07-08-1959 which is related to this case and I am satisfied to issue this order to delete the name of the 2nd party from Column No.16, Hal plot No.7030/9292 of Khatian No.1069/6 of Mouja Amarpur, and the land under Hal plot No.7030/9292 of Khatian 1069/6 column No.16 be corrected in favour of the applicant, and accordingly mutation be done.

This order be sent to SDM, Amarpur for execution."

03. Mr. Deb, learned counsel for the petitioner has raised a serious objection contending that though the entry made under column No.16 in ROR No.1069/6 has been deleted, the raiyats, the legal heirs of Ramdayal Tripura were neither impleaded as the party in the said proceeding nor had they been given any

opportunity of hearing. The relevant entry under column No.16 in Khatian No.1069/6 reads as follows:

"Transferred in contravention to the provision under section 187 possessor-Abdul Khalek, son of Abdul Hak, address-self, tin made house-1, house-1."

Parties in the said proceeding under Section 95, as it appears from the order dated 15.05.2014 were Md. Muslem Ahammed S/O. Sultan Ahammed and Md. Abdul Khalek, S/O. Abdul Haque.

04. Notwithstanding the findings as recorded by the Collector by virtue of the impugned order dated 15.05.2014, this Court is of the view that the recorded raiyat has got a substantive right to have his say regarding deletion of any entry in the record of rights (ROR).

05. In this perspective, this Court, without making any observation on merit of the case, is of the view that the raiyat should have been heard by the Collector before passing the impugned order. As the raiyats were not heard, this Court is of the considered view that the impugned order is liable to be set aside and accordingly it is set aside.

06. Mr. B. C. Das, learned Advocate General has correctly contended that after affording opportunity to the recorded raiyat or his legal heirs, the Collector may be permitted to pass the appropriate order.

07. Having regard to the respective contentions of the learned counsel for the parties, it is directed that after issuing

notice to the recorded raiyat or his legal heirs or successors in interest, the parties shall be given reasonable opportunity for fresh hearing on the issue of deleting the entry made in the column No.16 from the ROR 1069/6 relating to the plot No.7030/9292 and thereafter the Collector, Gomati District may pass the appropriate order as deem fit and proper in the fact and circumstances of the case.

With this observation and direction, this writ petition stands disposed of. There shall be no order as to costs.

JUDGE

MB