

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

CRP No.99 of 2015

Smt. Anjali Paul Raj,
W/o Late Jusef Paul Raj of
Vill.& P.O. Kunjaban, P.S. East Agartala,
P.S. East Agartala, District - West Tripura.

..... *Petitioner.*

– *Versus* –

Shri Sugrib Relly Singh alias Sugrib Kumar Relly,
S/o Ram Chandra Relly
A resident of Melarmath,
P.O. West Agartala, District - West Tripura.

..... *Respondent.*

B E F O R E

THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA

For the petitioner	:	Mr. A K Bhowmik, Sr. Advocate, Mr. S M Chakraborty, Sr. Advocate, Ms. B Chakraborty, Advocate.				
For the respondent	:	Mr. D C Roy, Advocate.				
Date of hearing and	:	29.9.2015.				
Date of judgment.	:	07.10.2015.				
Whether fit for reporting	:	<table border="1"><tbody><tr><td>Yes</td><td>No</td></tr><tr><td></td><td>✓</td></tr></tbody></table>	Yes	No		✓
Yes	No					
	✓					

JUDGMENT & ORDER

This civil revision petition is directed against the order dated 28th July, 2015 whereby the learned Civil Judge, Sr. Division No.2, West Tripura, Agartala accepted the demarcation report and directed that the police assistance be granted to evict the petitioner from the land in question.

2. The admitted facts are that a suit was filed by the decree holder against the petitioner(*hereinafter referred to as the judgment debtor*) and in that suit the decree holder was found to be owner of suit land measuring 5(five) Gandas of land comprised in Khatian No.921 appertaining to old Plot No.1142/4086 corresponding to Hal Plot No.2032 at Mouja - Kunjaban, Tahashil - Indranagar, West Tripura. It was also found on the basis of the demarcation carried out prior to the filing of the suit that the judgment debtor was in possession of 0.10 acres of land belonging to the decree holder the true owner.

3. The learned trial Court on the basis of the aforesaid finding held issue No.3 in favour of the plaintiff.

Issue No.3 reads as follows :

“Was the plaintiff dispossessed from the suit land by the defendant on 13.3.2010?”

4. Thereafter a decree for possession has been granted in favour of the plaintiff. This decree was become final and was not challenged by the judgment debtor. Execution petition was filed and in these execution proceedings the judgment debtor raised objections. Basically the objection raised was that she is not in possession of any land belonging to the decree holder. A demarcation was again conducted under the order of the executing Court and during this demarcation it was found that the judgment debtor is in physical possession of land measuring 0.08 acres under R S Plot No.2033 which is the decreetal land. This demarcation was

carried out in the presence of decree holder and judgment debtor since the report bears the signatures of both the parties.

5. The case was fixed on 28th July, 2015 for receipt of the report. The report was received on that date. None appeared on behalf of the judgment debtor and, therefore, the learned trial Court accepted the report and on the basis of the report directed that the judgment debtor be evicted from 0.08 acres of land. This order is under challenge.

6. At the outset it may be noticed that the main grievance of the judgment debtor(*petitioner herein*) is that the demarcation report submitted is not correct and that this report does not tally with the map. It is contended that the petitioner judgment debtor does not claim to be the owner of Plot No.2032 but the case is that she is not in possession of any portion of Khatian No.921 and, therefore, no decree is to be executed. It is also contended that the Court should have granted some time to the judgment debtor to file objections to the demarcation report.

7. As far as the last submission is concerned, I am not at all in agreement with the same. It is the duty of every party, either personally or through a counsel to appear before the Court on each and every date of hearing. None appeared on behalf of the judgment debtor before the Court on 28th July, 2015. It is not as if the judgment debtor was not aware about the demarcation report. She has signed the said report. She was also aware about the date in the case. However, neither she

appeared nor her counsel appeared on 28th July, 2015 and no time was prayed for filing objection to the demarcation report. Now, no further time can be granted.

8. Even otherwise, I am of the view that the stand of the judgment debtor does not appear to be correct. In the suit the judgment debtor was found to have dispossessed the decree holder from 0.10 acres of land and the execution petition was filed. In the demarcation now carried out in execution proceedings the extent of land has been found 0.08 acres which is less than the land mentioned in the decree. Therefore, I find no merit in the petition which is, accordingly, dismissed. No costs.

CHIEF JUSTICE

Sukhendu