

THE HIGH COURT OF TRIPURA
AGARTALA

CRP 91 OF 2014

1. Sri Subhash Lodh,
Son of late Aparna Charan Lodh,
Resident of Town Rajarbag, Udaipur,
P.O. & PS: Radhakishorepur,
District: Gomati, Tripura.
2. Sri Kamal Lodh,
Son of late Prafulla Chandra Lodh,
Resident: Care of Badal Bhowmik,
Resident of Sabroom Town,
PO & PS: Sabroom,
District: South Tripura.

..... **Petitioners.**

- V e r s u s -

1. Sri Sujit Lodh,
Son of Aparna Charan Lodh,
Resident of Village: Netaji Palli,
(V.K. Palli Gram Panchayet),
PO & PS: Sabroom,
District: South Tripura.
- **Plaintiff-Respondent.**
2. The State of Tripura,
Represented by the Secretary to the
Government of Tripura,
Department of Revenue,
New Secretariat Complex,
Kunjaban, Agartala.
 3. The District Magistrate & Collector,
South Tripura District,
P.O. & P.S: Belonia, Tripura.
 4. The Sub-Divisional Magistrate,
Sabroom, South Tripura.
 5. Sri Haradhan Paul,
Son of late Krishna Paul alias
Haradhan Dey, son of late Joy Chandra Dey,
Resident of village North Manu Bankul,
P.O.: Bankul, P.S: Sabroom,
District: South Tripura.

..... **Respondents.**

**BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA**

For the petitioners : Mr. D.K. Das Choudhury,
Advocate.

For the respondents : Mr. S.M. Chakraborty,
Sr. Advocate,
Ms. B. Chakraborty, Advocate.

Date of hearing & judgment : 22.01.2015.

Whether fit for reporting : **NO.**

JUDGMENT & ORDER (ORAL)

With the consent of the parties, the petition is being disposed of at the admission stage.

2. This petition is directed against the order dated 03-11-2014 passed by the learned Civil Judge (Junior Division), Sabroom, South Tripura in case No.T.S. 08 of 2011 whereby he rejected the prayer of the petitioners (defendants before the trial Court) to examine two more witnesses and produce some documents obtained under the Right to Information Act.

3. Here, it would be pertinent to mention that after framing of issues and after the statement of the plaintiff and his witnesses had been recorded and the defendants had also submitted their affidavits by way of examination-in-chief, the plaintiff (respondent herein) had moved an application for leading additional evidence to prove the identity of the vendor who is alleged to be Haradhan Dey. According to the plaintiff, the person who executed the sale deed is not the son of the original owners

whereas according to the defendants, he is the son of the original landowners but since his parents died at a young age, he was brought up by some other family and known by the surname of that family.

4. I am purposely not going into the detailed facts because this is a matter which the trial Court has to decide on the basis of evidence led. Basically, the issue is whether this Haradhan Dey is actually the son of the original landowners and was entitled to execute the sale deed or not. Earlier when this application filed by the plaintiffs was rejected, they filed a petition before this Court under section 227 of the Constitution of India and a learned Single Judge disposed of the petition with the following directions:-

“Without commenting on the merit of the order passed by the Court below, the revisional application is disposed of with a direction to the trial Court to afford opportunity to the petitioner i.e. the plaintiff to adduce evidence in respect of identity of the defendants and/or the vendor of the impugned deed if they so desire. The revisional application accordingly stands disposed of.”

5. Therefore, this Court gave an opportunity to the plaintiffs to adduce evidence in respect of the identity of the defendants and/or the vendor of the impugned deed. Once the plaintiffs have been given an opportunity to lead additional evidence which they had not produced at the time when the defendants had filed their original affidavits, the defendants have to be given an opportunity to lead evidence to the contrary. However, that evidence should be confined to the issue of

identification of the defendant and/or the vendor of the impugned transfer deed in question. The defendant is, therefore, permitted to examine the two persons named in the application now filed but the examination-in-chief of these two persons shall be limited to the identity of the vendor of the impugned deed and no other question shall be permitted to be asked from them. The cross-examination shall also be limited to that only. As far as the documents are concerned, these have not even been filed before this Court and, therefore, this Court is not in a position to decide whether these documents are necessary for decision of the case or not. Therefore, the defendant is not permitted to lead any documentary evidence.

6. The revision petition is disposed of in the aforesaid terms.

7. The parties through their learned counsel are directed to appear before the learned trial Court on 25-02-2015 and in case, any of the parties does not appear before the trial Court on the date so fixed, the trial Court shall not issue any notice to that party but shall proceed in the absence of the party.

8. The Registry is directed to ensure that the lower court record is sent back to the trial Court so as to reach before the next date.

CHIEF JUSTICE