

AD - 30
Ct No.16
10.02.2026
(SSS)

SAT 11 of 2025
with
CAN 2 of 2025

Smt. Thupa Bala Sardar
Vs.
Suniti Sardar and Ors.

Mr. D. K. Adhikari,
Mr. Samir Kumar Adhikari
....For the appellant.

1. The present challenge has been preferred against the order of the first Appellate Court, whereby the judgment of the Trial Court, dismissing the plaintiffs/appellants' suit for declaration of title and permanent injunction, was affirmed.

2. Learned counsel for the appellant argues that the learned first Appellate Court failed to take into consideration the fact that the wife of the original owner Jadu Sardar, namely Manibala, was a rustic, illiterate and pardanashin lady at the relevant point of time and could not have executed the transfer deeds on which the defendants/respondents relied on.

3. Moreover, it is argued that the learned first Appellate Court did not advert to all the findings of the Trial Court.

4. It is contended that since the name of Jadu Sardar, the original owner, finds place in the CS Records of Rights, the declaration as sought by the plaintiffs, in the capacity of the daughter of Jadu Sardar, ought to have been granted.

5. However, we find from the findings of both the Courts below that the plaintiff nowhere pleaded in the plaint that the said Manibala was either a rustic or an illiterate or pardanashin lady.

6. Only during arguments, a cursory reference was recorded by the learned Trial Judge to the effect that Manibala was a “tribal lady”. However, the said averment is not sufficient to raise the presumption applicable to pardanashin and illiterate ladies, in which case a reverse burden of proof is cast on the person relying on any deed executed by such a lady to show that the contents of the documents were read over and explained duly to the said lady. However, in the absence of any such averment in the pleadings of the plaintiff/appellant, we do not find any illegality on the part of either of the Courts in not adverting to such submissions.

7. That apart, the relief sought by the plaintiff was declaration of her title simpliciter, along with

the consequential relief of injunction. The title deeds executed in favour of the defendants' predecessor was never challenged in the suit at all. Thus, we do not find any error of law committed by either of the Courts below. In fact, the first Appellate Court adverted to all the materials on record and granted a partial decree in favour of the present plaintiff/appellant, relating to the properties not covered by the defendants/respondents' title deeds. Accordingly, we do not find any question of law, let alone any substantial question of law, involved in the present appeal, particularly in view of the concurrent findings of facts by both the trial court and the first appellate court.

8. Hence, SAT 11 of 2025 is dismissed under Order XLI Rule 11 of the Code of Civil Procedure. Consequentially, CAN 2 of 2025 is also dismissed.

9. There will be no order as to costs.

10. The parties shall act on the server copy of this order, duly downloaded from the official website of this Court.

(Sabyasachi Bhattacharyya, J.)

(Supratim Bhattacharya, J.)