



**HIGH COURT OF TRIPURA
AGARTALA**

RSA 08 of 2025

1. Smt. Ramani Debbarma, W/O. Late Laipada Debbarma, Resident of Machkumbhi, Police Station- Gandacherra, District- Dhalai Tripura.
2. Smt. Judhapati Debbarma (Reang), D/O. Late Laipada Debbarma, W/O. Shri Rabiroy Reang, Resident of Machkumbhi, Police Station-Gandacherra, District-Dhalai, Tripura.
3. Smt. Prabhati Debbarma (Reang), D/O. Late Laipada Debbarma, W/O. Shri Manasai Reang, Resident of Machkumbhi, Police Station-Gandacherra, District-Dhalai, Tripura.
4. Shri Diket Debbarma, S/O. Late Laipada Debbarma, Resident of Machkumbhi, Police Station-Gandacherra, District-Dhalai, Tripura.
5. Smt. Debika Chakma (Debbarma), W/O. Late Laxman Debbarma, Resident of Machkumbhi, Police Station-Gandacherra, District-Dhalai, Tripura.
6. Shri Dhijendra Debbarma, S/O. Late Laxman Debbarma, Resident of Machkumbhi, Police Station-Gandacherra, District-Dhalai, Tripura.
7. Smt. Dhanta Debbarma, D/O. Late Laxman Debbarma, Resident of Machkumbhi, Police Station-Gandacherra, District-Dhalai, Tripura.
8. Shri Bishal Debbarma, S/O. Late Laxman Debbarma, Resident of Machkumbhi, Police Station-Gandacherra, District-Dhalai, Tripura.

.....Appellant(s)

Versus

1. Shri Jira Kumar Reang (Jiro Kumar Reang), S/O. Late Khushi Dhan Reang, Resident of Machkumbhi, Police Station-Gandacherra, District-Dhalai, Tripura.
2. Smt. Biparong Reang, Daughter of Late Gurudayal Reang, Wife of Shri Bhagyaram Reang, Resident of Machkumbhi, Police Station-Gandacherra, District-Dhalai, Tripura.
3. Shri Surendra Reang, Son of Late Gurudayal Reang, Resident of Machkumbhi, Police Station-Gandacherra, District-Dhalai, Tripura.

.....Respondent(s)

For Appellant(s)	:	Mr. Kousik Datta, Advocate.
For Respondent(s)	:	Mr. Gobinda Debbarma, Advocate.
Date of hearing	:	17.04.2026.
Date of pronouncement	:	14.05.2026.
Whether fit for reporting	:	YES.



HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO

JUDGMENT & ORDER

This RSA is preferred by the appellants challenging the judgment dt. 16.08.2024 of the District Judge, Dhalai Judicial District, Ambassa in Title Appeal No. 05 of 2022 confirming the judgment dated 26.09.2022 of the Civil Judge, Sr. Div., Court No.1, Dhalai Judicial District, Ambassa in TS 10/2019.

2. The appellants are plaintiffs in the suit.
3. They had filed the said suit to declare their right, title and interest over the A schedule land; for recovery of possession of B schedule land from defendant No.1 by evicting him from the said land and by removing all sorts of obstruction/construction erected thereon; and also for recovery of possession of C schedule land from defendant No.2 by evicting the defendant No.2 therefrom by removing all sorts of obstruction/construction erected thereon.
4. It is not in dispute that the extent of the A schedule land is 2.09 acres, and both B schedule land (3 gandas) and C schedule land (5 gandas) are both part of the A schedule land.

The case of the plaintiffs/appellants:

5. The plaintiffs are legal heirs of Lt. Laipada Debbarma and appellant No.1 is his wife.
6. Lt. Laipada Debbarma and the appellant No.1 were accorded sanction of allotment of 2.14 acres through allotment order No. 44/199 dated 04.11.1997 which was also recorded in Sabek Khatian No. 469 of Mouja Laxmipur, Tehsil Gandacherra appertaining to Sabek Plot No. 1052/1433 and 1052/1434 for of which 0.05 acres had been acquired by the Government of



Tripura for the purpose of construction of Gandacherra-Ramnagar road. The balance 2.09 acres is the A schedule land.

7. The plaintiffs contended in the plaint that after revisional survey operation, the allotted land of the plaintiff No.1 and Laipada Debbarma was recorded in finally published Khatian No. 267 of Mouja Laxmipur, Tehsil Gandacherra appertaining to Hal Plot No. 1797, 1798 & 1799, CS plot No. 1052/1434(p), 1052/1433 (p) and 1052(p) which is described in the A Schedule.

8. It is the case of the plaintiffs that they had good relationship with one Surendra Reang residing in the same locality and the said person had approached them in December, 2016 for permitting the defendants to reside for about a year and a half in a part of A Schedule land which had been fallow and vacant by constructing dwelling hut on condition that they would handover vacant peaceful possession to the plaintiffs after completion of the said period of one and half years, as they were landless poor. Accordingly, the plaintiffs' claim that they handed over the B Schedule suit land which was part of the A Schedule suit land to Defendant No.1 and C schedule suit land which was also part of A Schedule suit land to Defendant No.2 on the intervention of the said Surendra Reang and that the two defendants with the permission of the plaintiffs, had constructed dwelling huts over the B and C schedule suit land, respectively.

9. Plaintiffs contended that the defendants did not vacate the suit land after the completion of the period for which they were permitted to stay there and refused to do so and, therefore, they had to file the suit for the above reliefs.



The case of the defendants:

10. Sri Surendra Reang was also impleaded as *proforma* respondent in the suit along with defendant Nos. 1 and 2.

11. The written statement was filed by all the defendants contending that Sri Surendra Reang and his wife Rankabari Reang got allotment of some land vide sanction order No. 1306 dated 04.07.1997 issued by then SDO, Gandacherra, Dhalai District for a plot of land measuring .80 acres. They contended that the plain B and C schedule land form part of the said 0.80 acres. They contended that the plain B and C Schedule land is part of the land mentioned in old Khatian No. 470 of Mouja Laxmipur, Tehsil Gandacherra which was opened in the name of the *proforma* defendant and his wife and it was also demarcated as per the map existed before the Revisional survey of 2001-02.

12. They contended that on 27.03.2018, the *proforma* defendant filed one application under Section 95 of the Tripura Land Revenue and Land Reforms Act before the DM & Collector, Dhalai District, Jawaharnagar for correction of the disputed land along with his land; on 05.04.2018 the said official forwarded it to the SDM, Gandacherra through a communication dated 05.04.2018; and the then SDM, Gandacherra conducted a field inquiry and submitted one compliance report to the DM & Collector, Dhalai, Tripura.

13. They contended that the said report states that the finally published khatian and maps of Mouja Laxmipur are not in proper order because during 2001-02 revisional survey was done in traditional method in Laxmipur Mouja resulting in changes in positions which were simultaneously reflected by the revenue field functionaries in the land records/maps available



at that time. They contended that the said report also states that the mismatch is because of the negligence on the part of the survey team deputed for the said task and they should have taken modified maps available in the respective Tehsils as reference for their survey work.

14. They further contended that the actual record and physical location of many public occupation and/or natural fixed point are so different that proper demarcation is not possible even with the help of expert field functionaries.

15. They denied the case set up by the plaintiffs and contended that the suit is filed by suppressing material facts in order to grab the land of the *proforma* defendant and the other defendants.

16. They also denied that the defendants and the pro-defendants were in possession of any plot of land of the plaintiffs. According to them, the plaintiffs were trying to take the benefit of the wrong mapping using the false plea that they were in possession of the *proforma* defendant's land.

The issues framed in the suit:

17. On the basis of these pleadings, the trial court framed the following issues:

- I. *Is the suit maintainable in its present form and nature?*
- II. *Whether the plaintiffs have right, title and interest over the 'A' scheduled suit land?*
- III. *Whether the plaintiffs are entitled to recover the possession of 'B' scheduled suit land from the defendant No.1 by evicting her from the said suit land?*
- IV. *Whether the plaintiffs are entitled to get the decree as prayed for or any other relief/reliefs in this suit?*

18. The plaintiffs examined PWs 1, 2 & 3 and exhibited nine documents.



19. The defendants examined three witnesses and marked six documents.

20. The trial court dismissed the suit which was also confirmed by the lower appellate court.

The RSA:

21. In this RSA, the following substantial questions of law arise:

(i) whether the judgments of the trial court and the lower appellate court are perverse?

(ii) whether there has been manifest misreading of evidence by the trial court and lower appellate court and whether they have ignored material evidence warranting exercise of jurisdiction under Section 100 CPC?

22. Counsel for appellants contended that when the plaintiffs produced the Allotment order No.44/99 dt.4.11.1997 (Exhibit No.1) which is their document of title/deed and the Kahtian No.469 (Exhibit No.2) , their suit should have been decreed more particularly when the defendants had not produced in their evidence the sanction order No.1306 dt.4.11.1997 relied on by them; that the said courts misdirected themselves and perversely held that the plaintiffs did not produce any deed in the suit in support of their claim for title to A schedule property when Exhibit No.1 has been filed by plaintiffs; and there is a presumption of genuineness of the Khatian No.469 (exhibit .2) under section 43 (3) of the Tripura Land reforms and Land revenue Act,1960 which has been ignored. He also contended that there is a manifest misreading of evidence particularly the communication dt.16.4.2018 from the ADM & Collector (Exhibit C) relied on by defendants.



23. The counsel for the respondents refuted the said contentions and supported the judgments of the trial court and the lower appellate court.

Consideration by this Court:

24. The suit being one where declaration of title is being sought by plaintiffs of A schedule land, the Courts below erred in not giving any weight to the Allotment order No.44/99 dt.4.11.1997 (Exhibit No.1) produced by the plaintiffs.

25. The said document is an allotment by the Collector, Dhalai district under rule 12 of the Rules framed under the Tripura Land Revenue and Land Reforms (Allotment of Land),1980 framed under the Tripura Land Reforms and Land Revenue Act,1960. Such a statutory allotment order cannot be ignored by the both the courts when it still stands and has not been doubted by anyone or set aside by any authority.

26. More importantly, the *proforma* defendant, who based his claim on the sanction order No.1306 dt.4.11.1997, had not even exhibited it in his evidence. This is an important document whose production by the defendants is absolutely necessary to consider their claim of denial of title of the plaintiffs.

27. Non-production of the same should have prompted the courts below to draw an adverse inference against the defendants under Section 114 (g) of the Evidence Act,1882. This is a clear error committed by both the trial court and lower appellate court.

28. The trial court, in spite of having noticed that the plaintiff's claim to the subject land is based on Exhibit-1 (which is the order of allotment No. 44/99 dt. 04.11.1997 showing the allotment of 2.14 acres made to Laipada



Debbarma and to the appellant No.1 by the then District Collector, Gandacherra) which is also reiterated in Khatian No. 469 (Exhibit-2) and khatian No.267 (Exhibit-3) , holds that the 4th plaintiff, who was examined as a witness, admitted in his oral evidence that the plaintiffs did not submit any deed in the suit, as one of the main reasons for denying relief to the plaintiffs. The lower appellate court also did the same thing.

29. When the Exhibit No.1 allotment letter dt. 04.11.1997 is the source of title of the plaintiffs, and is the document on which they are relying on to prove their title, both courts could not have held that they did not submit any deed. This is utterly perverse.

30. Both the Courts also erred in ignoring the fact that the record of rights Exhibit 2 i.e. Khatian No.469 and Exhibit-3 , the Khatian No.267 of Mouja Laxmipur produced by plaintiffs are presumed to be correct until the contrary is proved under Section 43(3) of the Tripura Land Reforms and Land Revenue Act,1960.

31. They failed to note that they had not been corrected by the State Government's revenue officials inspite of the grievance raised by the *proforma* defendant on 27.3.2018 before the DM & Collector, Dhalai under Section 95 of the Act.

32. The Courts below also erred in not taking note of the admission of defendant no.1 (DW2) in his cross examination that he is occupying part of the suit land. Defendant no.2 (DW3) admitted in his cross examination that he was tutored by the *proforma* defendant to say what he deposed. Both defendant no.1 (DW2) and defendant no.2 (DW3) had also stated in their cross



examination that they cannot say the Dag number and Khatian number of the land which they are occupying.

33. In the light of the above evidence, no reasonable person could have come to a conclusion that they were in fact in possession of land allotted allegedly to *proforma* defendant and the evidence of the plaintiffs in that regard therefore ought to have been accepted by the courts below.

34. If the case of the defendants is that the dag No.s 1052/1436 and 1052/1435 in the Khatian no.470 filed by them as exhibit A, were wrongly given DagNo.s 1868 and 1869, instead of no.s 1797 and 1798 in Exhibit D-Khatian No.314, as observed by the Courts below, the only remedy of the *proforma* defendant was to have it corrected by the Revenue Officials under the Act.

35. In Exhibit C letter dt.16.04.2018 of the SDM, Gandacherra to the District Magistrate and Collector relied on by defendants, in fact it was held that it is not possible to make any recommendation for correction of records and it is desirable to conduct survey with modern equipment.

36. Ignoring this important circumstance, both courts erred in relying on Exhibit C- letter dt.16.04.2018 of the SDM, Gandacherra to the District Magistrate and Collector wherein he expressed some doubt about the correctness of the revisional survey done during 2001-02 and suspecting a mismatch between the land records and maps published after the 2007 re-survey, and dismissing the plaintiffs' suit.

37. The Courts below also failed to note that there is no reference to Late Laipada Debbarma and the plaintiff no.1 in that letter. There is also no reference therein to the Allotment letter dt.4.11.1997 (Exhibit No.1) issued to



them or to the Khatian No.469 (exhibit-2) or Khatian No.267 (exhibit -3) produced by them. Long years after the issuance of the allotment letter and the said Khatians, the same cannot be doubted on basis of Exhibit C.

38. The Courts below also failed to note that application for correction of records under Section 95 filed by *proforma* defendant appears was only with respect of land allegedly claimed by him, but, the plaintiffs were not put on notice of any such application by him for correction of their land records and they had no opportunity to contest his plea in that regard.

39. So this document cannot be used by defendants to doubt the Allotment letter dt.4.11.1997 and the Khatian no.469 produced by plaintiffs.

40. In my opinion, there is a manifest misreading of evidence by the courts below as regards this document.

41. Moreover, the trial Court observed that the failure of the plaintiffs to make any claim against the *proforma* defendant Surendra Reang would result in any finding given not operating as *res judicata* in a subsequent suit against him. Contradicting itself, the trial court again says that the fact that a party is described as a *proforma* defendant or that no relief is claimed against him is by itself not sufficient to avoid the bar of *res judicata*.

42. This reasoning is bizarre and this point is wholly irrelevant to the suit. What would happen if the *proforma* defendant were to subsequently file a suit is a wholly irrelevant consideration for the trial court to have taken into account for denying relief to the plaintiffs.

43. Though both the courts below made comments on Ex.8 and 9, in my opinion, nothing much turns on them as they are decisions purportedly of



the Bru Social Convention, a local non political social organization, which has no judicial powers.

44. When the plaintiffs preferred an appeal before the District Judge, Dhalai, he practically copied the entire reasoning of the trial court verbatim and dismissed the appeal.

45. A First Appellate Court is expected to re-appreciate the evidence adduced in the trial court and independently come to a conclusion. It is not expected to simply copy the trial court's judgment in almost all respects and affirm the trial court's verdict.

46. The lower Appellate Court also perversely noted that the plaintiffs could not adduce any document before the appellate court in their favour.

47. When evidence is already adduced in the trial court and the allotment letter issued to the first plaintiff's husband had already been marked in the trial court, there was no necessity for the plaintiffs to again lead evidence in the first appellate court.

48. In *Yadarao Dajiba Shrawane v. Nanilal Harakchand Shah*¹, the Supreme Court held :

“31.... The position is well settled that when the judgment of the final court of fact is based on misinterpretation of documentary evidence or on consideration of inadmissible evidence or ignoring material evidence, the High Court in second appeal is entitled to interfere with the judgment”

(emphasis supplied)

¹ (2002) 6 SCC 404, at page 414 :



49. In *Nazir Mohamed v. J. Kamala*², the same was reiterated in the following terms:

“33.4. The general rule is, that the High Court will not interfere with the concurrent findings of the courts below. But it is not an absolute rule. Some of the well-recognised exceptions are where : (i) the courts below have ignored material evidence or acted on no evidence; (ii) the courts have drawn wrong inferences from proved facts by applying the law erroneously; or (iii) the courts have wrongly cast the burden of proof. A decision based on no evidence, does not refer only to cases where there is a total dearth of evidence, but also refers to case, where the evidence, taken as a whole, is not reasonably capable of supporting the finding.”

(emphasis supplied)

50. In *C. Doddanarayana Reddy v. C. Jayarama Reddy*³, it was held :

“28. Recently in another judgment in *State of Rajasthan v. Shiv Dayal*⁴, it was held that a concurrent finding of the fact is binding, unless it is pointed out that it was recorded de hors the pleadings or it was based on no evidence or based on misreading of the material on records and documents. The Court held as under : (SCC p. 640, para 16)

“16. When any concurrent finding of fact is assailed in second appeal, the appellant is entitled to point out that it is bad in law because it was recorded de hors the pleadings or it was based on no evidence or it was based on misreading of material documentary evidence or it was recorded against any provision of law and lastly, the decision is one which no Judge acting judicially could reasonably have reached.” (emphasis supplied)

² (2020) 19 SCC 57, at page 68

³ (2020) 4 SCC 659 : (2020) 3 SCC (Civ) 117, at page 668 :

⁴ (2019) 8 SCC 637



51. I am satisfied that the findings of both the Courts are perverse, that they have ignored material evidence and they have also misread the documentary evidence.

52. Therefore, the Second Appeal is allowed, both the judgments of the trial Court as well as the First Appellate Court are set aside and the suit of plaintiffs is decreed. No costs.

53. Copy of this judgment be placed in the service record of the trial Court Judge (as he is still in service) since this Court disapproves of the manner in which he dealt with the issues in the suit in a very superficial and perverse way.

Pending application(s), if any, also stand disposed of.

(M.S. RAMACHANDRA RAO, CJ)

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