

HIGH COURT FORM NO.(J) 2.

HEADING OF JUDGMENT IN ORIGINAL SUIT / CASE

DISTRICT: SONITPUR

IN THE COURT THE OF MUNSIFF NO.2, SONITPUR,
TEZPUR

Present: **Smti Priyanka Saikia, AJS,**
Munsiff No.2.

This the 23rd day of June/2022

Title Suit No. 131/2017

Smt. Biva Rani Ghosh

W/o- Sri Lahiri Ghosh
of Bartala Road, Monujuli
Dhekiajuli Town, Ward No.-3
P.O. & P.S.- Dhekiajuli
Dist- Sonitpur, Assam

Also at

Subhas Pally
Siliguri, Ward No. 19
P.O. & P.S.- Siliguri
Dist- Darjeeling
West Bengal

--Plaintiff

Sri Dilip Ghosh

S/o- Nityananda Ghosh
of Bartala Road, Monujuli
Dhekiajuli Town, Ward No.-3
P.O. & P.S.- Dhekiajuli
Dist- Sonitpur, Assam

---Defendant

1. Sri Pradip Ghosh

S/o- Lt. Nityananda Ghosh
of village Gorjanmua – 799114
P.S.- Kakrabon
Dist- Udipurgomati
Tripura

2. Smt. Anima Ghosh

D/o- Lt. Nityananda Ghosh
W/o- Sri Jiban Ghosh
of village Fatikroy
P.O.- Fatikroy
P.S.- Kumarghat
Tripura

----Proforma Defendants

This is a suit came up for final hearing on 29.04.2022,
in presence of following Advocates:

Counsel for Plaintiff : Sri A.K. Mahanta

Counsel for Defendant : Sri P.C. Sarmah

And having stood for consideration to this day, the
Court delivered the following Judgment:-

J U D G M E N T

Plaintiff's case in brief:

- 1.** This is a suit for declaration of right, title, and interest, recovery of possession, eviction and for mesne profit.

- 2.** That the Plaintiff is the wife of Sri Lahiri Ghosh and at present reside at Siliguri, West Bengal.

- 3.** That the ancestral home of the husband of the Plaintiff originally was in the Sate of Tripura.

- 4.** That late Nityananda Ghosh was the father of the Plaintiff's husband Sri Lahiri Ghosh, Late Naityananda Ghosh at the time of his death left behind 3(three) sons namley Sri Lahiri Ghosh, Sri Dilip Ghosh the Defendant Sri Pradip Ghosh the pro forma Defendant No. 1 and daughter Smt. Anima Ghosh married to Sri Jiban Ghosh. The wife of Late Nityananda Ghosh is dead.

- 5.** That the Pro-forma Defendant no. 1 and no. 2 both reside in the State of Tripura. The plaintiff in this suit has not seek any relief against the pro forma defendants. They have been impleaded in the suit only for the purpose that they do not dispute the claim of the Plaintiff that the suit property was not acquired by their father Late Nityananda Ghosh.

6. That in course of time at village Rampukhuri under Dhekiajuli Police Station in the District of Sonitpur, Assam Lt. Nitaynanda Ghosh and husband of the Plaintiff acquired considerable landed properties where the father in law Lt. Nitaynanda Ghosh and mother in law Late Kamal Ghosh of the Plaintiff also used to live. The Plaintiff and her husband till the year 1990 also lived there on the land in village Rampukhuri.

7. That husband of the Plaintiff purchased the suit land in the year 1998 from the vendor Sri Dilip Das, S/o Lt. Mahendra Das of Dhekiajuli Town, Ward No. 3 in the name of the Plaintiff as the purchaser vide Sale Deed No. 837/1998 of the Dhekiajuli Sub registry. In due course the Plaintiff was granted mutation in respect of 1 Katha 10 Lessas of land purchase through the said Regd. Sale Deed No. 837/1998. Since after the purchase till today the land revenue for the suit land is paid by the plaintiff.

8. That immediately after the purchase of the suit land the Plaintiff started construction over the land. In the year 1999 the construction of the house on the suit land was completed and thereafter the Plaintiff, her husband and daughter started living in the newly constructed house. It is pertinent to note that the Plaintiff and her family moved from the Village Rampukhuri and settled at the new house in the year 1999.

9. For certain reasons the Plaintiff particularly her husband suffered from insecurity resulting loss in his business and cultivation. In view of the situation prevailing then the husband of the Plaintiff decided to shift his place of abode to Siliguri and ultimately the Plaintiff her husband and daughter shifted their residence to Siliguri in West Bengal. But of course the Plaintiff and her family used to come from Siliguri and live in the suit house and premises intermittently.

10. That before their departure the Plaintiff rented out portions of the suit house to tenants. At the time of shifting there were four tenants namely Sri Sadhan Choudhury, Sri Amri Kar, Sri Anil Sarkar and one Sri Sriprakash. These tenants continued to pay monthly rental to the Plaintiff. After her departure to Siliguri the tenants used to send the rental through postal money orders to the Plaintiff or to the Plaintiff hand to hand on her visit to the said property. Be it mentioned that there were bed and other furniture and utensils etc, left in the suit house by the plaintiff for use and occupation at the occasional visit to Dhekiajuli from Siliguri. It is noteworthy that as on filing of this suit there are some furniture and things of the Plaintiff in the suit house.

11. That the houses after completion was covered by Dhekiajuli Municipal Board Holding No. 181 of Ward No. 3 and registered in the name of the Plaintiff paid the Municipal Tax to the Dhekiajuli Municipal Board. The

electric connection in the suit house was obtained in the name of the Plaintiff. The electrical Meter installed by the ASEB in the suit house till filing of this suit is standing in the name of the plaintiff and the Electric Meter No. is 1012550. The land and house described herein above owned and possessed absolutely by the Plaintiff.

12. That the Plaintiff established their temporary residence at Siliguri. However, till the month of April, 2002 the rental from the tenants were received by the Plaintiff directly from the tenants.

13. During the month of March, 2002 the elder younger brother, the defendant and mother Late Kamala Ghosh decided to shift to Dhekiajuli in Assam. The ancestral house of the Plaintiff's husband at village Rampukhuri, Uriamtali needed extensive repairing to make the same habitable. Therefore, the defendant requested the Plaintiff for permission to live in the Plaintiff's house left behind at Bartala Road, Monojuli, Dhekiajuli with his family and the mother. The Plaintiff and her husband agreed to allow the defendant to live there. Accordingly the defendant with his family and the mother in law of the plaintiff all came from Tripura in the month of March, 2002 and started living there in the house. Since some portion of the houses was in possession of tenants the defendant and the plaintiff's mother in law started living in the other portion of the houses. The defendant's family is comprised of wife Anita Ghosh and son Sri Dipankar Ghosh.

14. The defendant promised to restore the ancestral house of village Rampukhuri to make it fit for living and to shift his residence from the suit house to the house of village Rampukhuri. During their temporary visit to Dhekiajuli the Plaintiff and her husband on many occasion asked the defendant to vacate the suit house. At such request made by the plaintiff the defendant always assured the Plaintiff to vacate her house as and when the Plaintiff decide to live permanently in the suit house.

15. However, since the mother in law was there with the defendant out of obligation and respect to the mother in law the Plaintiff did not take any coercive measure against the defendant to evict him from the suit property. Till the mother in law was alive the defendant used to collect rentals from the tenants of the house and handover to the Plaintiff. During the period new set off tenants came to reside in the suit house as tenants. Since the defendant was living in the house new tenants were choosed by the defendant.

16. That after the death of the mother in law the conduct and attitude of the defendant completely changed and the defendant started to show his true colour. The defendant stopped handing over the rentals collected from the tenants to the Plaintiff regularly. The defendant always took his cut from the rentals claiming it his due share entitled to him as the caretaker of the suit property. Since

the mother in law was no more the Plaintiff made strong demands to the defendant to vacate the suit land and house on many occasions.

17. That the defendant not only refused to comply with the demand of the Plaintiff rather he totally stopped to handover rentals or any part thereof collected from the tenants to the plaintiff. From the last part of the year 2016 the defendant totally stopped all contact with the Plaintiff and her husband.

18. That from the year 2015 the husband of the Plaintiff became sick and underwent treatment for his liver ailment and mostly he was confined indoor in the house so his business activity virtually stopped. A huge sum of money was spent from his treatment therefore the Plaintiff and her family suffered from financial crisis. The plaintiff and her husband under compulsion decided to sale the suit land and hose. As no prospective customer shall come forward to purchase the property when the property is under occupation of the hostile defendant the Plaintiff served a notice through her advocate Sri Amar Kuma Saha of Siliguri on the defendant demanding to vacate the said land and house within service 07(seven) days from the date of served of the notice. The Plaintiff thought that the defendant shall vacate the suit property on receipt of the notice, but even after receipt of the notice the defendant did not respond in any manner. Therefore, the Plaintiff with her daughter Smt. Laxmi Ghosh came from Siliguri

and on 02.03.2017 at about 1.30 PM arrived at the suit land and house with a view to reside in the house to sort out the problem with the defendant.

19. That on 02.03.2017 the defendant not only refused to discuss the matter with the Plaintiff or her daughter rather the defendant stopped the Plaintiff to enter in the interior of the house and declared that he will not allow the Plaintiff to live in the house. At such unruly, aggressive behavior altercation between the Plaintiff and the Defendant occurred. The defendant's wife Smt. Anita Ghosh and the son Sri Dipankar Ghosh joined the defendant in quarrelling with the Plaintiff. They all the abused plaintiff and her daughter with vulgar words and the assaulted the Plaintiff and her daughter with hand and chased out the plaintiff and her daughter from the suit land and house. The defendant even brandished a Dau and warned the Plaintiff to cut to pieces if the Plaintiff ever return to the suit property and claimed that he is the owner of the suit land and house. The Plaintiff thereafter lodged a FIR with the Dhekiajuli Police which the Police registered as Dhekiajuli PS Case No. 169/2017.

20. That during the month of July 2016 the Plaintiff did offer to sell the suit property and asked the defendant to purchase the property. At that time the Defendant promised to think over the proposal and at that time he uttered not a single word claiming the property as his own. Rather the defendant said he will look for a customer

capable of paying good rice for the property and he shall take a good amount from the consideration as his cut.

21. That in the face of recent hostility the plaintiff has been compelled to institute this suit. The criminal act of the defendant on 02.03.2017 and refusal to comply the formal advocate notice to vacate the suit land and house have proved that the defendant intend to grab the land and house of the plaintiff.

22. That the suit property is the self acquired property of the plaintiff and her husband. The Defendant has no right, title and interest and possession in the suit land and house. The defendant was permitted by the Plaintiff and the husband to live to the house temporarily. At the relevant time the defendant promised to shift to the Rampukhuri ancestral home after under taking extensive repairing work there to make the house fit for living.

23. Hence, the instant suit.

The Gist of Defendants case:

24. On receipt of the plaint summons were served upon the defendant and submitted contested the suit by filing written statement. The defendant stated there is no cause of action for this suit and this suit is not properly valued. The suit is bad for non-joinder of necessary party. The defendant denied all the allegations levelled against him.

Hence, the defendant do pray for dismissal of suit by imposing compensatory cost on the Plaintiff.

25. Upon perusal of pleadings of both the sides, the following issues were framed by my learned predecessor-in-office: Issues framed on 02-04-2018:

- i. Whether there is any cause of action for the suit?**
- ii. Whether the plaintiff has right, title and interest over the suit land?**
- iii. Whether the plaintiff is entitled to the decree as prayed for?**
- iv. To what other reliefs the plaintiff is entitled?**

26. I have heard the arguments of the learned Counsel for the Plaintiff and defendant. I have considered the argument learned counsels for both the sides and also have perused the case record in detail. The plaintiff has adduced the evidence of five witnesses in support of her case whereas the defendant has adduced the evidence of two witnesses. The materials on record and submissions made on behalf of both sides have received due consideration of this court.

27. I have heard the arguments advanced by both side.

Decision on issue no. i:

Whether there is any cause of action for the suit?

28. The defendant pleads that the plaintiff does not have cause of action for institution of this suit. The expression "cause of action" would mean the existence of a right in favour of the plaintiff and the denial thereof by the defendant. The cause of action is nothing but a bundle of material fact which the plaintiff must allege and prove in order to succeed in his case. Needless to say, if the plaintiff succeeds in proving their pleadings, then she will be entitled to the reliefs. I am therefore of the view that there is a prima facie cause of action in the present suit.

This issue is decided in the affirmative and in favour of the plaintiff.

Decision on issue no. ii:

Whether the plaintiff has right, title and interest over the suit land?

29. From the averment of the pleadings of both sides, the admitted position is that the husband of the plaintiff and defendant are the brothers. The plaintiff in order to prove her case has brought on record her testimony as PW-1.

30. The PW-1(Smt. Biva Rani Ghosh) has stated in her evidence that her husband had purchased the suit land in her name, measuring 1 Katha 10 lechas through registered Sale Deed vide number 837/1998 from Sri Dilip Das, son of Late Mahendra Das of Dhekiajuli Town, ward No.3 and since then she has been paying the land revenue regularly. After purchased, the plaintiff had mutated her name over

the suit land. PW-1 stated that immediately after purchased, she had started construction over the suit land and in the year 1999, the construction of the houses completed and she, her husband and her daughter started to live in the house over suit land.

In her cross examination she stated that her deceased father-in-law live in Rampukhuri and before her marriage, he was died. According to her, her father-in-law had 11 Bighas of land in Rampukhuri at Dhekiajuli. Her mother-in-law Kamala Sundari Ghosh, her brother-in-law Pradip Ghosh and her sister-in-law Anima Ghosh were living at Tripura. Her mother-in-law had some land in Tripura. In Siliguri also, they have some land but in whose name, plaintiff has no knowledge. When her husband went from Dhekiajuli, defendant started to live in the house of Rampukhuri at Dhekiajuli. In the year 2017, plaintiff came to Dhekiajuli along with her daughter. The houses thereon the suit land were made by PW-1. She had not submitted any documents regarding the permission for construction of house. PW-1 did not execute any tenancy agreement, though she had let out the rooms to the different tenants. In plaint she has stated she lodged an Ejahar but she has no knowledge of the status of the case.

31. PW-2 (Laxmi Ghosh) also stated that in her cross examination stated that she was born in 1987. When she was young, she went to Tripura. Her grandmother Kamala Sundari was died on 2012. Her father went to Siliguri from

Dhekiajuli in 2002 and before that he went to Tripura. She came to Dhekiajuli in 1998. Her mother and father had a business on Grocery in Siliguri. Her father had a house and a shop in Rampukhuri. The suit land was purchased by her father. She knew all the tenant of the house over the suit land. She has no knowledge about the dag and patta number of the suit land. She knew the incident happened on 02.03.2017.

32. PW-3 (Hiranya Borah, Jr. Assistant Dhekiajuli Sub-Registrar Office) has stated in his evidence that the registered Sale Deed No.837 was executed between Bibha Rani Das i.e. Plaintiff and Dilip Das. Ext-7 is the register Book volume, where the aforesaid Sale Deed was recorded. The said deed was executed on 22.06.1998. Ext-8 is the Fee Register Book. Ext-8(1) is the relevant entry of the relevant entry of the payment of registration of the aforesaid deed. Ext-9 is the thumb impressions book, Ext-9(1) is the relevant thumb impressions of Dilip Das. The sale deed was executed by legal procedure.

In his cross examination, PW-3 deposed that he had joined Dhekiajuli Sub-Registrar on 18.09.2017. He has no personal knowledge about the aforementioned Sale Deed. He has deposed as per the documents.

33. PW-4 (Nabajyoti Kalita, Lat Mondol at Dhekiajuli Sub Registry Office) stated in his evidence that Ext-10 is the Jamabandi of Part No.2 of Dhekiajuli, Ext 10(i) is the relevant entry as per order dated 03.10.1998 of the Circle

Officer whereby the names of Bibha Rani was mutated in place of Dilip Das by virtue of purchaser of land measuring 1 Katha 10 Lessa out of 3 Bighas 1 Katha 17 Lessas.

In his cross examination, he deposed that no sale deed number is mentioned in Ext 10(i).

34. PW-5 (Bipul Baruah, Tax collector) Ext-11 is the tax collection registrar of year 2004 and 2005. Ext 11 (i) is the entry of Bibha Rani's holding No.181 of ward No.3 of Dhekiajuli Town. Ext-12 Tax collection register of Dhekiajuli Ward No.3 of the year 2016-2017. Ext-12 (i) is the relevant entry of holding No.181 of Ward No.3 of Dhekiajuli Town. As per record, Biibha Rani has been paying the tax against holding No.181 regularly.

In cross examination PW-5 has deposed that Ext-11 is different as per different wards. The collection register is changed every year. Ext-11 is used only for ward No.3 of Dhekiajuli Town. The certificate of Vice Chairman does not show that Ext-11 shall be used only for ward no.3 of Dhekiajuli Town.

35. DW-1 (Dilip Chandra Ghosh) has deposed in his cross examination that his father had three sons including him and one daughter. His father left house in Garmur at Tripura. He was living at his father's house and Pradip Ghosh also used to live there and at present also live there at Agartala. His elder brother and father made landed property in Dhekiajuli, at Assam. His father came to Assam from Tripura along with mother. His father died in the year

1972. Thereafter his elder brother married to plaintiff and started to live in the house at Rampukhuri. His has no knowledge about the purchase of suit land in the name of plaintiff by his elder brother. At the time of purchasing the suit land, he was in Agartala. Plaintiff has exhibited Deed of Sale, Land Revenue Receipt in this suit. His elder brother and plaintiff went to Siliguri for some reason. At the of leaving the house, plaintiff had let out her house for rent to Sadhan Choudhury, Amrit Kaur, Anil Sarkar and Sri Prakash and she also left some furniture and utensils in their house. The holding number, electricity connection of the house over the suit land are in the name of plaintiff. The rent was also collected by the plaintiff. In the 2002, he along with his mother and family came to Dhekiajuli from Tripura. He did not repairing his father house which is in Monujuli. Plaintiff has let out three rooms, therefore they started live in remaining two room at plaintiff's house. When the tenant left the room, he again let out the rooms to new tenant. His mother was expired 10/12 years ago. He started collected rents from the tenants from he started to live in plaintiff's house. When his elder brother falls sick, plaintiff asked him to leave the house as she needed money and wanted to sell the property. He had received from Advocate Mishra of Tezpur Court but he did not leave the house. Therefore, on 02.03.2017 plaintiff and her daughter came to his house. He did not let them entered to the house. He along with his wife and son had some argument with plaintiff and her daughter. Therefore,

plaintiff informed police and police came there for investigation. He has no any dispute with his younger brother and sister. He did not inform his younger brother and sister for claiming their father's property. His father's property are enjoyed and possessed by others. The properties of his father of Tripura were partitioned among three brothers. At present he has received the rents of the house.

36. DW-2 has supported the contention as stated by defendant and deposed in his cross examination evidence that plaintiff his paternal aunt. He was living in his father's house which was constructed by his father. He has not gone to plaintiff's house at Tripura. He has no knowledge regarding the land of Tripura. Dilip Ghosh has two brothers and one sister (now deceased). The mother of defendant had her landed property in Rampukhuri at Dhekiajuli. He was staying at that property. He could not produce any documents regarding the property which was taken by plaintiff. The plaintiff has not possessed other land excluding the suit land. Plaintiff has possessed and enjoyed land in Dhekiajuli and Rampukhuri. Plaintiff and her husband left the land in Rampukhuri and started to live in Dhekiajuli in the year 1999. He has knowledge that the suit land is in the name of plaintiff. Plaintiff has taken holding number and electricity connection in her name on the suit land, which was acquired by herself. The plaintiff has left for Siliguri after living in four years on the suit land.

Plaintiff has left some furniture and other articles in the house over the suit land. Defendant started to live on the suit land after plaintiff had left from there. Defendant along with his mother came from Siliguri to the suit land.

37. The defendant stated that he had living the house over the suit land premises when he came back from Agartala. He himself admitted that his name was neither inserted in the sale deed nor in Jamabandi. He had not purchased the suit land but purchased by the plaintiff. Ext.2 is the Jamabandi wherein it as mentioned that 1 Katha 10 Lechas was mutated in the name of plaintiff. **PW-4 (Nabajyoti Kalita, Lat Mondol at Dhekiajuli Sub Registry Office) stated in his evidence that Ext-10 is the Jamabandi of Part No.2 of Dhekiajuli, Ext 10(i) is the relevant entry as per order dated 03.10.1998 of the Circle Officer whereby the names of Bibha Rani was mutated in place of Dilip Das by virtue of purchaser of land measuring 1 Katha 10 Lessa out of 3 Bighas 1 Katha 17 Lessas.** Ext.3- Land Revenue Receipt paid by Plaintiff. Ext.4-Revenue receipts, issued by Dhekiajuli Muncipal Board and paid by the plaintiff. Ext.5 is the Electricity bill. Ext. **PW-5 (Bipul Baruah, Tax collector) Ext-11 is the tax collection registrar of year 2004 and 2005. Ext 11 (i) is the entry of Bibha Rani's holding No.181 of ward No.3 of Dhekiajuli Town. Ext-12 is Tax collection register of Dhekiajuli Ward No.3 of the year 2016-2017. As**

per record, Biibha Rani has been paying the tax against holding No.181 regularly. DW-1 further admitted that on 02.03.2017 he had not let the plaintiff and her daughter to their house. He still occupied the two rooms. He admitted that the suit land was originally purchased by the plaintiff and the holding number, electricity connection of the house over the suit land are in the name of plaintiff.

38. Now, having gone through the evidence on record and after perusal of documents available in the case record, it is clearly established that the schedule land was purchased by the plaintiff vide registered Sale Deed No. 837/98 dated 20.06.1998 and she was the owner of the land. Even both DWs have admitted in their cross examination that the suit land was in the name of plaintiff. DW-2 has deposed in his evidence that plaintiff has not possessed other land excluding the suit land and the plaintiff has possessed and enjoyed land in Dhekiajuli and Rampukhuri. When Plaintiff and her husband left the land in Rampukhuri, then defendant started to live in Dhekiajuli in the year 1999. **PW-3 (Hiranya Borah, Jr. Assistant Dhekiajuli Sub-Registrar Office) has stated in his evidence that the Registered Sale Deed No.837 was executed between Bibha Rani Das i.e. Plaintiff and Dilip Das.** Ext-7 is the register Book volume, where the aforesaid Sale Deed was recorded. The said deed was executed on 22.06.1998. Ext-8 is the Fee Register Book.

Ext-9 is the thumb impressions book, Ext-9(1) is the relevant thumb impressions of Dilip Das. The plaintiff as PW-1, in her evidence-in-chief has exhibited and proved the sale deed i.e. deed no.837/1998 dated 20.06.1998 through which PW-1 had purchased the suit land of 1 Katha 10 Lechas from Sri Dilip Das, S/o Lt. Mahendra Das of Dhekiajuli Town, Ward No. 3 and the same could not be rebutted by the defendant. **PW-3 has verified that the sale deed was executed by legal procedure.** The plaintiff has also proved that she has been paying the land revenue of the suit land by exhibiting the revenue paying receipts. During the cross examination of PW-1, the defendant had tried to establish that plaintiff has not submitted any documents regarding the permission for construction of house and did not executed any tenancy agreement, though she had let out the rooms to the different tenants and in absence of documents it cannot be said that house was made by the plaintiff over the suit land. But that really does not affect the title and right of the plaintiff over the suit land as the defendant could not shatter the veracity of the other documents submitted by plaintiff. It appears from the documents on record that the plaintiff has also exhibited the revenue paying receipts, which clearly establishes the fact that the plaintiff has been paying the land revenue. On the other hand, defendant has not exhibited any document by which it can be proved that plaintiff had purchased the suit land by selling defendant's father property. As the title to the land is not

at all disputed and admitted by the defendant, it is conclusively proved that the plaintiff is the owner of the suit land. The evidences of two witnesses of defendant also do not reveal anything which can be taken to prove that, the suit land was purchased by the husband of plaintiff, by the amount of received an amount of Rs.5,50,000/- by selling possessory right of 12 Bighas of Tuzi land. In the instant suit, the plaintiff's title over the suit land is conclusively proved. It is also proved that the plaintiff has been paying the land revenue from the time of purchase of the suit land and thereby acquired a right over the suit land to live there. On the other hand, the defendant could not prove any right over the suit land. Hence, it is held that the plaintiff has right, title and interest over the suit land and she is entitled to the relief as prayed by her. The issue is, thus, decided in affirmative.

39. DW-1 has admitted that the land was purchased by the plaintiff's deceased husband in the name of plaintiff. DW-1 had admitted that he had not purchased the suit land but purchased by the plaintiff's deceased husband. The defendant has been claiming the land on the ground that plaintiff's husband purchased the suit land by selling his father's land. The defendant at the time of filing of the suit had living in the suit land without any right title in the suit land. As the suit land was purchased by the plaintiff vide valid Sale deed and plaintiff acquired right, title, interest over

the suit land and hence defendant is to vacate the suit land possessed by defendant.

Considering the above discussion this issue is decided in affirmative in favour of plaintiff.

Decision on issue no. iii & iv.

Whether the plaintiff is entitled to the decree as prayed for?

&

To what other reliefs the plaintiff is entitled?

40. For convenience both these issues are taken up together for discussion. In the instant suit the plaintiff has claimed her right, title, interest and possession over suit land and claimed for recovery of possession by evicting the defendant therefrom. Admittedly, defendant has been residing in the house constructed in the suit premises. As the suit land has already been purchased by plaintiff by valid registered Sale Deed and plaintiff acquired right, title and interest over the suit land, hence the defendant had no right, title and interest over the suit land and liable to be evicted from Schedule land. Hence, the plaintiff is entitled to the decree as prayed for. The plaintiff is, however, entitled to get the cost of the suit. Hence, these issues are decided in affirmative.

ORDER

41. In conclusion, the suit is decreed on contest with cost. It is declared that plaintiff has right, title and interest

over the schedule land. The plaintiff is also entitled to recover the suit land by evicting the defendant with his men and material.

42. Prepare a decree accordingly.

43. Judgment is pronounced in open court.

Given under my hand and seal of this court on this
23rd day of June, 2022

(Smt. Priyanka Saikia, AJS)

Munsiff No. 2

Sonitpur, Tezpur

APPENDIX

Plaintiff's Witnesses:

PW-1 : Smti Biva Rani Ghosh.

PW-2 : Smti. Laxmi Ghosh.

PW-3 : Sri Hiranya Borah.

PW-4 : Sri Nabajyoti Saikia.

PW-5 : Sri Bipul Baruah.

Plaintiff's Exhibits:

Ext.1 – Registered Sale Deed dated 20-06-1998.

Ext.2 – Certified copy of jamabandi of Lat No. 8, Part 2 of Dhekiajuli Town, District- Sonitpur, Assam.

Ext.3- Land revenue receipt dated 26-04-2017.

Ext.4- Municipal tax receipt dated 14-02-2017.

Ext.5- Electricity bill dated 05-10-2017.

Ext.6- Money receipt of APDCL.

Ext.7- Copy of volume register.

Ext.8- Fee registration book.

Ext.8(1)- Relevant entry of the payment of registration fee.

Ext.9- Thumb impression book.

Ext.9(1)- Relevant thumb impression of Dilip Das.

Ext.10- Copy of jamabandi.

Ext.10(1)- Signature.

Ext.11 and Ext.12- Copy of tax impose and collection register.

Ext.11(1) and Ext.12(1)- Relevant entry of Biva Rani Ghosh in tax impose and collection register.

Defendant's Witnesses:

DW-1 : Sri Dilip Ghosh.

DW-2 : Sri Biswajit Ghosh.

Defendant's Exhibits:

NIL

(Smt. Priyanka Saikia, AJS)

Munsiff No. 2

Sonitpur, Tezpur