

**High Court Form No. (J) 2.
Heading of Judgment in Original Suit**

District : SONITPUR.

**IN THE COURT OF MUNSIFF NO. 1, SONITPUR,
TEZPUR**

**Present : Sri Vishek Bhuyan, AJS,
MUNSIFF NO. 1, SONITPUR.**

Tuesday the 20th day of December, 2022

TITLE SUIT NO. 150 of 2022

Sri Mantu Singha

..... **Plaintiff**

-versus-

Smt. Lakhirani Ghosh

..... **Defendant**

S.Mishra **Advocate for the plaintiff;**

and

Sofikul Rahman **Advocate for the defendant,**

JUDGMENT

1. That the plaintiff and the defendant are permanent residents of village- Alisinga Uriamguri,, Mouza- Mahabhairab, P.O- Panchmile, P.S- Tezpur, Dist- Sonitpur (Assam) and the schedule land is also situated in the same village.

That the plaintiff was in search of land for constructing his house/structure for shelter of herself and her family members. In the month of August, 2019 the plaintiff requested the defendant to sell a piece of land to the plaintiff for construction of house, the defendant agreed to sell the schedule land to the plaintiff on sale consideration of Rs. 63,000/- (Rupees Sixty Three Thousand) only.

That the plaintiff on 09.08.2019 paid an advance amount of Rs. 61,000/- (Rupees Sixty One Thousand) only to the defendant and the defendant on 09.08.2019 executed a registered deed of Advance for sale of schedule land being no. 1695 for the year 2019 of Tezpur Sr. Sub-Registry Office, tezpur registered on 09.08.2019 in favour of the plaintiff in presence of witnesses. The defendant promised to obtain requisite permission for sale of the schedule land from the competent authorities and to accept the balance sale consideration amount from the plaintiff on the day of execution of registered sale deed in

favour of the plaintiff for the schedule land. Thus the defendant on 09.08.2019 entered into concluded contract for sale of the schedule land to the plaintiff by executing registered deed of advance for sale of land being no. 1695 for the year 2019 of Tezpur Sr. Sub-Registry Office, registered on 09.08.2019. Be here it stated that the defendant on the same day delivered possession of the schedule land to the plaintiff for construction of his house/structures over the schedule land as she had no other land for construction of her house.

That the defendant on 09.08.2019 obtained signatures of the plaintiff on forms and papers for obtaining requisite permission for sale from the competent authorities and the plaintiff delivered the defendant copies of identity documents to the defendant for obtaining permission for sale. The defendant has assured and promised the plaintiff that she would obtain requisite permission for sale of the schedule land within the month of October 2019 and at any cost shall execute registered sale deed within 31.10.2019.

That the plaintiff on 31.10.2019, 20.11.2019 and 11.01.2020 requested the defendant to accept the balance sale consideration amount of Rs. 2,000/- (Rupees Two Thousand) only and to execute registered sale deed in favour of the plaintiff, but the defendant on all occasions assured the plaintiff that very soon the defendant would

obtain requisite permission for sale and execute registered sale deed in favour of the plaintiff.

That the plaintiff in the year 2021 on several occasions requested the defendant to obtain requisite permission for sale and to execute registered deed of sale in favour of the plaintiff, but the defendant on all occasions made promise and assurances.

That the plaintiff on 20.05.2022 met with the defendant and requested to execute registered deed of sale in favour of the plaintiff, but surprisingly the defendant has refused to sale the schedule land to the plaintiff.

That the defendant has failed to perform her part of contract which was entered by her on 09.08.2019 whereas the plaintiff is ever ready with the balance sale consideration amount of Rs. 2,000/- (Rupees Two Thousand) only. The defendant has breached the concluded contract dated 09.08.2019 entered into by executing a registered deed of advance for sale of land being no. 1695 for the year 2019 of Tezpur Sr. Sub-Registry on 09.08.2019.

That the defendant does not execute registered sale deed in favour of the plaintiff and if she execute registered sale deed in favour of any other person at a higher sale consideration amount, then the plaintiff shall suffer irreparable loss and injuries both in law and equity, as the T.S Case No. 150 of 2022 4 of 9

plaintiff has invested about Rs. 2,00,000/- (Rupees Two Lakhs) only in construction of his houses/structures over the schedule land and the plaintiff has no any other land.

2. Summon was duly served on the defendant and the defendant failed to enter appearance and vide order dated 27.09.2022 proceedings are drawn exparte against defendant and on 29.11.2022 defendant has filed a petition under Order IX Rule 7 of CPC for vacating exparte order passed against her. On the same date, the defendant did not file written statement and instead filed an application for admission under Order XII Rule 6 of the Code of Civil Procedure for admission of fact.

3. In support of the instant case the plaintiff submitted the following documents :

I) Photo stat copy of Agreement for sale of land being no. 1695 for the year 2019 of Tezpur Sr. Sub-Registry Office, registered on 09.08.2019.

II) Photo stat copy of certified copy of Jamabandi of P.P No. 50 Dag No. 108, 152, 109 of village-Alisinga Uriam, Mouza-Mahabhairab.

4. That the Defendant admits all the averments of the plaintiff and he further admitted that he received the

balance sale consideration on 29.11.2022. The defendant further states that he has no intention to neglect and refuse the registration of the suit land in favour of the Plaintiff within the stipulated time as agreed.

5. I have perused the pleadings of the Plaintiff and the application for admission of fact by the defendant of the claim of the Plaintiff. The defendant has admitted the averments of the plaintiff and that she is ready to perform her part of the contract.

6. Thus, the admission of the defendants regarding the whole claim of the plaintiff establishes the suit in favour of the Plaintiff. Further, it is well settled that on basis of admission Court has the discretion to pass judgment upon satisfaction that the admission relied upon is cleared, definite and unequivocal. To be noted that it was observed in *Uttam Singh Duggal & Co. Ltd. Vs. United Bank of India, (2000) 7 SCC 120*

"Where one portion of the claim was admitted and the other portion was denied, and both the portions were severable, the plaintiff could ask for a judgment on the portion admitted by the defendant."

Further in Nagindas Ramdas Vs. Dalpatram Iccharam, AIR 1974 SC 471 it has held

"Admission in the pleadings or judicial admissions made by the parties, at or before the hearing of the case, stand on a higher footing than evidentiary admissions and are binding on the party making them and constitute waiver of proof."

7. Considering the above position of law and upon satisfaction of the application for admission of fact filed by the defendants admitting the claim of the plaintiff; I deem it fit to pass judgment.

8. Accordingly, it is held that, the plaintiff has been able to prove his case based on admission of fact by the defendants and hence, entitled to the decree with the following relief:

For specific performance of contract for sale of schedule property to the Plaintiff directing the Defendants to execute registered Sale Deed in favour of the Plaintiff only, the defendant already admitted that he received the balance sale consideration on 29.11.2022 and to have the Sale Deed registered as per law at the cost of the Plaintiff and for delivery of possession of the suit land within 15 days of this judgment, if required by evicting the Defendants with their men, materials and servant there from.

Order

9. In the conclusion, the suit is decreed with cost with the below mention relief/s.

i. For specific performance of contract of sale of schedule land directing the defendant to execute

registered sale deed in favour of the Plaintiff within 15(fifteen) days from the date of this judgment.

ii. For permanent injunction restricting and prohibiting the defendant from sale and transfer of the schedule land in any manner to any other person.

10. Prepare decree accordingly.

Given under my hand and the seal of this court on this the 20th day of December, 2022 at Tezpur, Sonitpur.

**Sri Vishek Bhuyan
Munsiff No.1,
Tezpur, Sonitpur.**

APPENDIX

A. Plaintiff's Witnesses : Nil.

B. Defendant's Witnesses : Nil.

C. Plaintiff's Exhibits : Nil.

D. Defendant's Exhibits : Nil.

**Sri Vishek Bhuyan
Munsiff No.1,
Tezpur, Sonitpur.**