

(2014) 06 TP CK 0054
In the Tripura High Court
Case No : CRP 74 of 2008
Manik Basak VsParul Shil

Date of Decision : 25-06-2014

Acts Referred:

Citation : (2014) 06 TP CK 0054

Hon'ble Judges : Deepak Gupta, C.J

Bench : Single Bench

Advocate : A.C. Bhowmik, Sr. Advocate and D.C. Roy, Advocate for the Appellant; A.K. Bhowmik, Sr. Advocate and A. Banik, Advocate for the Respondent

Final Decision : Allowed

Judgement

Deepak Gupta, C.J.—This petition is directed against the order dated 14-07-2008 passed by the Collector, South Tripura, Udaipur in case No. 12 of 2008 whereby he allowed the application filed by the respondents and directed that the name of the petitioner be removed from column No. 24 against hal plot no. 237, 257, 134, 131, 217 & 218 of hal khatian no. 17/1 & 17/2 of mouja Baishnabpur. The relevant portion of the order reads as follows:-

In view of the above observation & findings, I am satisfied that the contention of the 1st party has been found true for deleting 2nd party's name from column no. 24 against hal plot no. 237, 257, 134, 131, 217 & 218 of hal khatian no. 17/1 & 17/2 of mouja Baishnabpur as revealed from SDM, Sabroom, inquiry report. Hence, I order that hal khatian no. 17/1 & 17/2 of mouja Baishnabpur, Baishnabpur T.K. under Sabroom Sub-Division shall be corrected by deleting 2nd party's name from column no. 24 against hal plot no. 237, 257, 134, 131, 217 & 218.

2. The respondents herein filed a petition that they had inherited the land in question which belonged to their late father Sri Gopal Chandra Shil. They claimed that the name of Manik Basak, S/O. Late Nakshatra Kumar Basak was wrongly recorded in column no. 24 of khatian no. 17/1 and 17/2. They, therefore, prayed

for correction of the record of rights and prayed that the name of Sri Manik Basak be deleted from column no. 24. The petitioner Manik Basak who is the son of Late Sri Nakshatra Kumar Basak appeared before the Tribunal and filed a written statement claiming that he was in possession of the land in question. Furthermore, it was urged that earlier Gopal Chandra Shil, predecessor-in-interest of the applicant who sought correction of the record of rights, had filed a suit against him (Manik Basak) and his father, Nakshatra Kumar Basak and one Sri Ananta Kumar Paul with regard to the same land. In this suit, the plaintiff had claimed that he was an owner in possession of the entire suit land. It was further alleged that the defendants claimed ownership over part of the plaintiff's plot and hence, the suit.

3. Nakshatra Kumar Basak and his son Manik Basak contested the suit on the ground that the plaintiff was not in possession of the suit land and, therefore, had no cause of action to file the suit. They also contended that the plaintiff by two unregistered deeds had transferred 1.87 acres of land in C.S. Plot No. 153, 197, 138, 71, 72 & 69 of mouja Baishnabpur for consideration in favour of defendant No. 1, Nakshatra Basak. It was alleged that defendant No. 1 was in possession of those plots ever since that time.

4. The Civil Court framed issues and held that the plaintiff had executed two unregistered documents in favour of the defendant and had failed to prove that he was in possession of the suit land since 1957 onwards. He, therefore, dismissed the suit and held that the defendant Nos. 1 and 2 were in possession of the suit land. The copy of this judgment had been annexed with the written statement filed before the Collector, but for reasons best known to the Collector, he did not even make reference to this judgment though otherwise he has referred to the written statement in detail.

5. It is well settled law that questions of title are normally to be decided by Civil Courts and if there is a decision of the Civil Court with regard to title of any property, the Revenue Court/Revenue Officer is bound by the same. The Revenue Courts cannot sit in judgment, over the orders or decrees passed by the Civil Courts.

6. Therefore, I am clearly of the opinion that the Collector had no jurisdiction to take a view which was against the judgment and decree passed by the learned Civil Court.

7. In this view of the matter, the petition is allowed. The order of the Collector is set aside and the petition filed by the respondents for correction of record of rights is deemed to be dismissed.

8. The revision petition is disposed of accordingly.

Send down the lower court records forthwith.