

HIGH COURT FORM NO. (J) 2.  
HEADING OF JUDGMENT IN ORIGINAL SUIT

DISTRICT : **KAMRUP.**

IN THE COURT OF CIVIL JUDGE NO. 3, KAMRUP, GUWAHATI.

Present: Shri S.K. Poddar, AJS,  
Civil Judge No. 3, Kamrup, Guwahati.

**Tuesday, the 7<sup>th</sup> day of August, 2012.**

**TITLE SUIT No. 179/2007**

Dr. Saurav Sarma & ors ..... Plaintiffs.

-vs-

Shri Sailen Roy & ors .... Defendants.

This suit coming on for final hearing on **21/07/12** in the presence of:-

Mr. S. Medhi, ..... Advocate for the plaintiff.

None appeared ..... for the defendant.

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

**J U D G M E N T**

*This is a suit for declaration of right, title and interest and permanent injunction and valued at Rs. 3,50,000/- and fixed court fees are paid.*

1. Plaintiff's case, in brief, is that the principal defendant Shri Sailen Roy being the attorney holder of proforma defendant Nos. 1 and 2 sold 1 Bigha 2 Kathas of land in total to the plaintiffs by executing three Sale Deeds being No. 7224/05, 7225/05 and 7226/05 ..... Contd. on P/2

which is a part and parcel of Schedule-1 land. After selling the suit land, possession was handed over to the respective plaintiffs and they have constructed their houses with full knowledge of the principal defendant and proforma defendants. On 17/4/07, some unknown persons being engaged by the defendant, criminally intimidated the plaintiffs for vacating the land on the ground of taking over possession of the said land stating that they have entered into an agreement with the defendant for purchasing the said land. The acts of said unknown persons have clouded the title of the plaintiffs and hence, they have filed the suit for declaration of right, title and interest and confirmation of possession and also for permanent injunction against the defendants.

2. On receipt of the plaint, summons were issued to the defendants and proforma defendants. None of them appeared and contested the suit by filing written statement and hence, the suit proceeded ex parte against them.

3. Plaintiff side in support of their claim, have submitted the affidavit of plaintiff No. 1 Dr. Saurav Sarma as PW 1 and another affidavit of Shri Dhiren Chandra Baishya PW 2 and proved some documents. The evidence of the plaintiff remained un-rebutted and unchallenged.

**POINT FOR DETERMINATION :-**

4. i) Whether the plaintiffs have the right, title and interest over the Schedule-II land ?

ii) Whether plaintiffs are entitled for the decree as prayed for ?

5. In the course of evidence, PW 1 and 2 have supported the pleadings of the plaint. Vide exbt-1, 2 and 3 (sale deeds for the suit land) PW 1 proved that plaintiff Nos. 1, 2 and 2 have purchased the Schedule-II land and vide Exts-4, 5 and 6, plaintiffs have got mutation of their names in the records of rights. The above documents show that on purchase of the said land, vide registered Sale Deed Nos. 7224/05, 7225/05 and 7226/05 dated 14/06/05, the plaintiffs got title over the suit land as shown in the Schedule-II of the plaint. Exts-4, 5 and 6 mutation certificate also confirms their possession over the purchased land. The averments of plaint/affidavit of pw 1 and 2, that the men and agents of the principal defendant have threatened the plaintiffs by visiting the suit land on 17/04/2007 and also the information that the defendant has entered into an agreement for sale of the suit land on 07/06/2007 remained un-rebutted. *..... Contd. on P/3*

The above averment shows that even after sale of the Schedule-II land, the

defendant is trying to transfer the said land to others and as such, the plaintiffs' title is apparently clouded. The act of the defendant and his men and agents have also caused threat to the peaceful possession of the plaintiffs. The plaintiffs being lawful purchasers, are entitled for the declaration of their right, title and interest over the purchased land and also entitled to protect their property. As such, both the points as formulated above are answered in affirmative and in favour of the plaintiff.

6. In the result, except the costs, plaintiffs are entitled for getting the decree as prayed for. In view of facts and circumstance of the case, plaintiffs are directed to bear their own costs.

### **ORDER**

7. Plaintiffs' suit is decreed exparte without costs with the following reliefs :-

- a) Plaintiffs' have right, title and interest over their respective purchased part as shown in Schedule-II of the plaint.
- b) A permanent injunction is hereby granted against the defendant and his men and agents restraining them from disturbing the peaceful possession of the plaintiffs by any means.
- c) Plaintiffs' are directed to bear their own costs.

8. Prepare the decree accordingly within 15 days from today.

Given under my hand and seal of this Court on this the 7<sup>th</sup> day of August, 2012.

Civil Judge No. 3,  
Kamrup, Guwahati.

Dictated and corrected by me

Civil Judge No. 3,  
Kamrup, Guwahati.