

HIGH COURT FORM NO. (J) 2.

HEADING OF JUDGMENT IN ORIGINAL SUIT.

IN THE COURT OF MUNSIFF NO. 3 AT GUWAHATI.

DISTRICT-KAMRUP

Title Suit Case No. 104/2012

Present:

Naguib Ahmed. A.J.S
M.Sc (Agriculture), LL.B
Munsiff No.3, Kamrup,
Guwahati.

31st day of August, 2012

Sri. Nripen Pathak.

S.O: Sri. Hachiram Pathak

R.O: Ghoramara Village,

P.S: North Guwahati

Guwahati.

District: Kamrup (M), Assam.....: Plaintiff(s).

-Versus-

Sri. Pankaj Bania.

S.O: Late Umesh Ch. Bania

R.O: Dihing Satra Village,

North Guwahati

Mouza: Silasindurighopa.

District: Kamrup (M), Assam.....: Defendant(s)

This suit coming on for final hearing on 17.08.2012 in the presence of:-

1. Sri. L. Mahanta : Advocate for the plaintiff(s).

And

2. None : Advocate for the defendant(s).

and having stood for consideration to this day, the court delivered the following Judgment.

JUDGEMENT

(A suit for declaration and permanent injunction.)

1. ***Plaintiff's case:*** The plaintiff is a bonafide purchaser of land measuring 2Kathas 8Lechas more specifically describe in Schedule-A of the plaint. The plaintiff purchased the suit land from the father of the defendant way back in 1997 by a registered sale deed bearing no.2801/97 with valid permission of the competent authority and since the date of purchase the plaintiff is in continuous possession over the suit land. The land has also been mutated in the name of the plaintiff vide order dated 07.02.2005 of the learned SDC North Guwahati Revenue Circle. The revenue records were accordingly corrected in the name of the plaintiff. However on 01.03.2012 the defendant with some of his men went to the suit land with a view to illegally encroach and dispossess the plaintiff there from. The plaintiff immediately informs the matter to the police for the safety of his life and property.

2. ***Plaintiff's prayer:***

Accordingly the plaintiffs prayed for the followings:-

- i) Decree for declaration that the action of the defendant is illegal and bad in law.
- ii) Decree for permanent injunction.
- iii) Decree for any reliefs to which the plaintiff is entitled to.
- iv) Decree for full cost of the suit.

3. Accordingly summonses were issued to the defendant which were properly served. The defendant appeared but did not contest the suit and hence the suit proceeded ex-parte against the defendant.

4. The plaintiffs submitted evidence of 2 (two) witnesses in support of their case.

5. The plaintiff ***Sri. Nripen Pathak*** examined himself as ***PW-1*** and reiterated the plaint story.

The following documents were exhibited by the PW-1.

- Exhibit-1** : Sale deed No. 2801/97.
Exhibit-2 : Mutation Order dated 07.02.2005 in Mutation Case No. 553/2002-2003.
Exhibit-3 : Copy of Jamabandi.
Exhibit-4 : Land revenue paying receipt.
Exhibit-5 : Trace map.

6. The plaintiff also submitted evidence of *PW-2* of *Sri Bhupen Kalita* who submitted that he knows the plaintiff and the defendant. The plaintiff purchased the suit-land from Sri Umesh Chandra Bania, father of Sri. Pankaj Bania by registered sale deed and since then Sri. Nripen Pathak is in continuous possession over the suit-land. Sri. Nripen Pathak also got his name mutated in the revenue records. On 01.03.2012 the defendant with some of his men went to the suit land with a view to illegally encroach and disposes the plaintiff there-from.

7. I have also heard arguments advances by the learned counsel for the plaintiff.

There is no discrepancy in the evidence adduced by PW-1 and PW-2.

The defendant did not contest the suit and hence the suit proceeded ex-parte. Ex-parte trial does not mean automatic trail in favour of the plaintiff. However in the instant case there are no reasons to disbelieve the pleadings of the plaintiff along with evidences of PW-1 and PW-2. The documents exhibited by the plaintiff are duly proved. The evidence of the plaintiff remained un-rebutted. The suit is filed within time. After going through all the evidence on record the court finds that the plaintiff has been able to prove its case.

8. **ORDER**

The suit is decreed ex-parte with cost.

The plaintiff is accordingly entitled to decree as prayed for.

Prepare decree accordingly.

Given under my hand and seal of this court on *31st day of August*

2012.

*Naguib Ahmed
Munsiff No.-3, Kamrup,
Guwahati.*

APPENDIX

Plaintiff's Witnesses

PW- 1: Sri. Nripen Pathak.

Exhibit-1: Sale deed No. 2801/97.

Exhibit-2: Mutation Order dated 07.02.2005 in Mutation Case No.
553/2002-2003.

Exhibit-3: Copy of Jamabandi.

Exhibit-4: Land revenue paying receipt.

Exhibit-5: Trace map.

PW-2: Sri. Bhupen Kalita .

Defendant's Witnesses

None

*Naguib Ahmed
Munsiff No.-3, Kamrup,
Guwahati.*