

Form no. (J) 2

Heading of Judgment in original suit/ case

**In the original court of the Munsiff No. 4, Kamrup,
Guwahati**

Present :- Mrs. Achma Rahman, AJS

Dated :- 28th of September, 2011

TITLE SUIT NO. :- 152 / 2010

Smti Bimola Bordoloi.

....Plaintiff /
Petitioner

Versus

1. Smti. Bharati Bordoloi.
2. Sri Lohit Chetia.

.....Defendants/
Opposite parties

This suit/ case coming on for final hearing on 16.09.2011 in the presence
of:-

Sri Thaneswar Sharma, H Sharma, N Rajbonshi, R. Das and
G. Deka, Advocate for the plaintiff
And None for the defendants

And having stood for consideration to this day, the court delivered the
following judgment.

JUDGEMENT

The plaintiff has instituted this suit for Mandatory injunction restraining
the defendant and their servant, agents e.t.c from disturbing in running of the

piggery firm and also to restrain them from creating any disturbance to the family member of the plaintiff residing in the suit land.

Plaintiff's case in brief is that the plaintiff is the daughter of Late Keshab Lalung and Dukhibala Lalung who left four son's and three daughter's including the plaintiff and the defendant. Late Dukhibala Lalung was the owner of land measuring 19 B 2 K 1 L covered by K.P patta no 14 comprised of dag no 152,18,122,58,201,146,150, 119 and land measuring 4 B 1 K 15 L covered by dag no 3 of Periodic patta situated in village Bonda under Mouza Beltola. That the land covered by K.P no 14 have been mutually enjoyed by the legal heir and out of such mutual arrangement, the plaintiff is occupying/enjoying the land measuring 3 (three) Kothas covered by dag no 119 since long without interruption from any quarter and has been using the same for running piggery firm. However on 31-03-10 defendant no 1 & 2 had trespassed over the land with ulterior motive and since then they started threatening them and asked them to vacate the suit land. The defendant had also started filing of false F.I.R against the plaintiff on baseless allegations.

Summons were issued to the defendants but they failed to appear before the court in spite of receipt of the same and hence the suit proceeded ex-parte against them.

As there is no written statement in the suit and hence no issues are framed, but in order to arrive at a definite findings as regards the matter in issue, I have formulated the following points for determination.

POINTS FOR DETERMINATION :-

1. Whether the plaintiff is in possession of the suit land ?
2. Whether the defendants have been disturbing the plaintiff from running his business and enjoying the suit land?
3. Whether the plaintiff is entitled to a decree as prayed for ?

The plaintiff in support of their case filed evidence on affidavit on PW-1 Smti Bharati Bordoloi, the plaintiff and exhibited as many as 7 (seven) documents in support of her suit.

Plaintiff has exhibited the following document in support of their case:-

Exhibit No. 1:- Certified copy of jamabandi of Miady Patta no 14.

Exhibit No. 2:- Copy of letter issued by the Managing Director of the Assam Plain Tribe Development Corporation Ltd .

Exhibit No. 3:- Loan Sanction of UCO Bank Bonda.

Exhibit No. 4:- Letter of Assam Plain Tribe Development Corporation Ltd .

Exhibit No. 5:- Letter of Assam Plain Tribe Development Corporation Ltd .**Exhibit No.6:-** Receipt.

Exhibit No. 7:- Copy of Land Revenue receipt.

DISCUSSION, DECISION AND REASONS THEREOF :-

Point No. 1 and 2 :-

Let me discuss the relevant portion of the evidence on record to decide these points.

PW 1 Smti. Bimola Bordoloi in her evidence has stated that her mother Smti Dukhibala Lalung was the absolute owner of about 19 Bighas of land covered by patta no 14 and 4 Bighas of land covered by patta no 6. She has further stated that out of 19 Bighas 2 Kothas 1 Locha land, the plaintiff, out of mutual arrangement, have been occupying and possessing 3 Kothas of land. In support of her contentions she has exhibited the certified copy of jamabandi of patta no 14 and land revenue receipt as Exhibit No 1 and 7 respectively. She has further stated that she has been possessing the suit land since long. She has exhibited the loan sanction letter of Assam Tribes Development Corporation Ltd dated 10-09-1990 as Exhibit No 2. She has also exhibited letter dated 15-11-90 and 05-01-91 of Assam Tribes Development Corporation Ltd as Exhibit No 4 & 5 respectively. It is further stated that on several occasion the defendants caused disturbance and annoyance to the peaceful enjoyment of the plaintiff over the suit land and on one occasion the defendants stole three numbers of female pigs and broke the doors of the firm causing loss of more than rupees sixty thousand only.

On careful perusal of the deposition as well as the exhibits referred above, I have found no discrepancy between the plaintiff case and the available evidence on record. Moreover, the statement of the plaintiff as appeared in the plaint and

in the evidence referred above have neither been contested by filing written statement nor been cross examined by the defendant side. It is the principles of law, that if a proceeding is not denied by the other side, then the same is deemed to be admitted. In the instant case also, the defendant has also not denied the statement of evidence of the plaintiff side and as such the statement of evidence deemed to have been admitted.

Hence point no. 1 and 2 are decided in positive way and in favour of the plaintiff.

Point no. 3:-

In view of the decisions of point no. 1 and 2, I am of the considered opinion that the plaintiff is entitled to a decree for injunction as prayed for.

In addition to what has been stated above the plaintiff is entitled to the cost of the suit from the defendants.

Therefore, point No. 3 is decided in favour of the plaintiff.

ORDER

In view of the above discussions and decisions, the suit of the plaintiff is decreed ex-parte with costs. It is hereby decreed and directed that the defendants and their servant, agents e.t.c are injuncted from disturbing the peaceful possession and enjoyment of the plaintiff in the suit land. Cost of the suit is decreed against the defendants. Prepare the decree accordingly.

Given under the hand and seal of this court on this the 28th day of September, 2011 at Kamrup, Guwahati.

Munsiff No. 4, Kamrup, Guwahati

APPENDIX

1. Witness for the plaintiff :- PW-1 - Smti Bharati Bordoloi.

2. Witness for the defendant:- Nil

3. Exhibits for the plaintiff :-

Exhibit No. 1:- Certified copy of jamabandi of Miady Patta no 14.

Exhibit No. 2:- Copy of letter issued by the Managing Director of the Assam Plain Tribe Development Corporation Ltd .

Exhibit No. 3:- Loan Sanction of UCO Bank Bonda.

Exhibit No. 4:- Letter of Assam Plain Tribe Development Corporation Ltd .

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Exhibit No. 5:- Letter of Assam Plain Tribe Development Corporation Ltd .**Exhibit No.6:-** Receipt.

Exhibit No. 7:- Copy of Land Revenue receipt.

4. Exhibits for the defendant :- Nil

Munsiff No. 4, Kamrup, Guwahati