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**In the Court of Shri J. M. Murasing**  
**Civil Judge (Senior Division), Kailashahar**  
**North Tripura District Judiciary**

**Title Suit No.- 06 of 2013**  
**(Computer ID No.-TS/0300006/2013)**

**Date of Institution:-28<sup>th</sup> January, 2013**

**Date of Argument:-17<sup>th</sup> & 21<sup>st</sup> July, 2014**

**Date of Decision:- 28<sup>th</sup> July, 2014**

1. Shri Satya Ranjan Gosh,  
.....Plaintiff

Versus

1. Shri Rakesh Gosh,
2. Shri Ranjit Gosh,
3. Shri Satish Gosh,
4. Shri Sontosh Gosh,
5. Sri Subrata Gosh,
6. Shri Rakhal Chandra Gosh,

.. Principal-Defendants

7. Smt. Sulekha Gosh,
8. Smt. Suprava Gosh,
9. Smt. Sima Gosh,
10. Smt. Sita Gosh,
11. Smt. Shila Gosh,
12. Smt. Purnima Gosh,
13. Soubhagya Gosh having died her heirs—
  - (a) Shri Amrica Gope alias Ambica Gope,
  - (b) Shri Anup Gope,
  - (c) Shri Amu Gope,
  - (d) Smt. Sipu Gope,
  - (e) Smt. Sampa Gope, and

14. Smt. Usha Gosh,

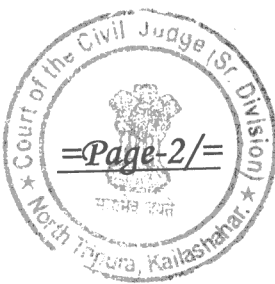
-----Proforma-defendants

**Present:** Mr. S. P. D. Purkaystha, Ld. Counsel for the Plaintiff

Mr. C. Battacharjee, Ld. Counsel for deft. Nos.-1 to 5 & 11

*[Signature]* 28/07/14  
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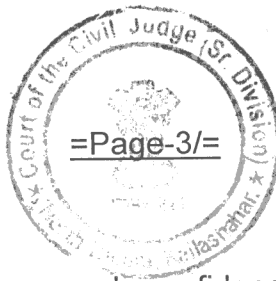
[SUIT FOR DECLARATION, CONFIRMATION OF POSSESSION & PERPETUAL INJUNCTION]

JUDGMENT

1. Shri Satya Ranjan Gosh [hereinafter referred to as 'plaintiff'] has instituted this suit against Sri Rakesh Gosh and 5 others [hereinafter referred to as 'Principal-defendant'] and Smt. Sulekha Gosh and 11 others (hereinafter referred to as "Proforma-defendants") for declaration of right, title and interest over the suit immovable property, confirmation of possession thereof and perpetual injunction as consequence relief.
2. The case of the plaintiff in brief are that the father namely Raj Kumar Gosh of the plaintiff's had owned the suit land and other lands. Said Raj Kumar Gosh died on 30/01/2007 leaving behind him his 7 (seven) sons i. e., the plaintiff and the principal defendant nos. 1 to 5 and 7 daughters i. e., proforma defendant nos. 7 to 12 and the mother of proforma-defendant nos.-13(a) to 13(e) and also his widow proforma defendant no.-14. The principal defendant no.-6 is the paternal uncle of the plaintiff. One son namely Samir Gosh of said Raj Kumar Gosh has been unheard where about and untraceable for last 30 years.
3. The said Raj Kumar Gosh during his life time had lived with this plaintiff-son in the same mess and house. The plaintiff during the life time of said father Raj Kumar had served nursed and took care of him at utmost including his mother defendant no.-14. On the death of his father, he and his other brothers also performed 'Shradda Ceremony'. Since long time the plaintiff and his other brothers have been in separate mess and property, however, they were in joint mess till the year 2004. The plaintiff at the time during living in joint mess ran and maintained the expenses of the family out of income of his sweetmeat stall.
4. During his life time, Raj Kumar Gosh, now deceased, having full satisfaction and confidence to the plaintiff-son had constituted him his attorney to look after his property and asset by the registered deed of power of attorney dated-12/6/2001.

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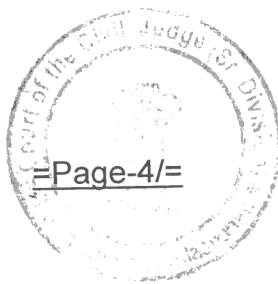
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The plaintiff's father had very much confidence to the plaintiff and also highly satisfied with his behavior, care taking, maintenance, management, honesty, diligence and reverence etc.

5. Thus, long before his death, the plaintiff's father while he had been in good health and mind considering total circumstances and without any provocation from any body and corner executed a registered 'will' (testament) bearing no.-III-5 dated-26/02/2001 in respect of some of his property. The plaintiff's father had narrated in detail about his making will in the deed. By that said 'will' the plaintiff's father bequeathed some of his land property to the beneficiaries' sons and daughters mentioned therein namely-Rakesh Chandra Gosh, Satya Ranjan Gosh, Santosh Chandra Gosh, Subrata Gosh and Purnima Gosh. All the defendants were aware of this will. However, some terms of that 'will' was altered by the author vide unregistered deed of memorandum.
6. On the death of plaintiff's father, the suit land along with land measuring 0.17 acres within R. S. Plot no.-1405 were devolved upon the plaintiff as per the terms of the registered will and the unregistered deed of memorandum, accordingly, the plaintiff came to possess the same by way of developing in various way. The said land has also been recorded in the separate khatiyans in the name of the plaintiff and he has been paying revenue thereof. In such circumstances, at recent time the principal defendant nos.-1 to 5 turned hostile towards this plaintiff being ill-advised by the defendant no.-6 and in the result there has been so many proceedings under Section 107 Cr. P. C. has been pending before the Court of the Executive Magistrate. Thereafter since 22/01/2013 the principal defendants started threatening the plaintiff with dispossession from the suit land and on 20/01/2013 the defendant no.-2 physically appeared at the neighborhood of the suit land for creating disturbance of the possession of the plaintiff over the suit land, also there was altercation between them. In the above circumstances the plaintiff has brought this present suit for declaration of his right, title and interest

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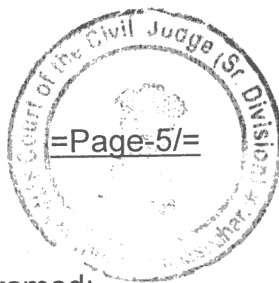
in the suit land, confirmation his possession there over and also perpetual injunction restraining defendant nos. 1 to 6 and their men and agent to create any disturbance in the possession of him.

7. Notice of the suit was given to the defendants and proforma-defendants; the defendant nos.-1 to 5 and proforma defendant nos.-11 and 14 contested the suit by way of filing common and joint written statement. The defendant no.-6 and other remaining proforma-defendants did not appear and contest the suit, accordingly, the suit against them was ordered to be heard ex-parte. On the merit of the case it has been contended by the contested defendants that during the life time of deceased Raj Kumar Gosh, the clever and greedy plaintiff took him and his widow-proforma-defendant no.-14 in his mess by giving some false promise and plea. Thereafter, the plaintiff in collusion with one deed writer exercised fraud upon his father Raj Kumar Gosh and could manage to got executed a fabricated 'will' by him. In fact, the contents of the will were not read over and explained to Raj Kumar Gosh, but, he just put his signatures in some papers in his room. All these facts were learnt from proforma-defendant no.-14, the widow of said Raj Kumar. The plaintiff while his father and mother had been staying with him in his mess did not maintain them well and properly, rather, he misbehaved and treated ill treatment upon them, so, they at last left his mess and started living with their other sons. After the death of said Raj Kumar Gosh, the answering defendants came to learn about existence of the alleged will and in the mean time, the proforma-defendant no.-14 also disclosed the matter of taking signatures of said Raj Kumar by the plaintiff with the help of one gentleman of Manipuri Community. In fact, deceased Raj Kumar Gosh during his life time did not execute any sort of will with his free consent as well voluntarily. In the above circumstances, the answering defendants pray to dismiss the suit with costs.

8. Replication was made wherein the contentions made in the plaint were reiterated and those made in the written statement were denied. On the pleadings of the

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parties, following issues are framed:-

1. Whether the suit is not maintainable in its present form and law?
2. Whether the plaintiff has his right, title and interest over the suit land vide registered will bearing no.-III-5, Kamalpur Sub-Registry office dated-26/02/2001 and un-registered deed of memorandum (amendment/ correction)?
3. Whether the alleged aforesaid registered will and un-registered deed are genuine or fabricated/ fraudulent etc.?
4. Whether the defendant nos.-1, 2, 3, 4, 5 and 6 tried and trying to dispossess or interfere with the possession of the plaintiff over the suit land?
5. Whether the plaintiff is entitled to get decree as prayed for?
6. Any other relief / relieve.

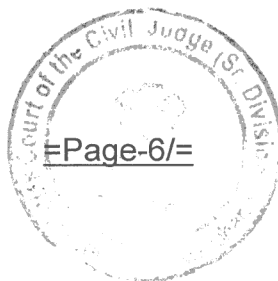
9. In order to substantiate its claim, the plaintiff examined as many as 4-witnesses in its oral evidence and they are Satya Ranjan Gosh, the plaintiff as PW-1, Tanu Singha as PW-2, Rais Miah as PW-3 and Kshitish Gosh as PW-4. The plaintiff in its documentary evidence tendered the following documents:

1. Khatiyan nos.-493/1, 493/2, 615/1 & 615/2 as-----Ext. 1 series,
2. 11 nos. Revenue papers as-----Ext. 2 series,
3. Registered General power of attorney as-----Ext. 3 series,
4. Memorandum of land allotment as----Ext. 4,
5. Death Certificate of Raj Kumar Gosh as-----Ext. 5,
6. Order dated-29/9/2010 passed by Tripura Information Commission as-----Ext. 6,
7. Sketch map, Noagon Mauza, sheet no.-4(5) as----Ext. 7,
8. Khatiyan no.-1343 as-----Ext. 8 series,
9. Revenue papers in 8 nos. as -----Ext. 9 series,
10. 4 nos. copies of notice as -----Ext. 10 series, and
11. Will dated-1/03/2001 as -----Ext. 11 series.

10. On the other hand, defendant-side also examined as many as 4 nos. witnesses in its oral evidence and they are-Santosh Gosh as DW-1, Smt. Usha Rani Gosh as DW-2, Birendra Kairi as DW-3 and Rakhal Chandra Gosh as DW-4. Defendant in its documentary evidence tendered no documents.

11. I have heard Mr. S. P. Datta Purkaystha, the Ld. Counsel appearing for the Plaintiff and Mr. Chiranjib Battacharjee, the Ld. Counsel appearing for the contesting defendants and Proforma-defendants. Ld. Counsels for the parties have also filed separate two memorandums of written arguments and the same

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are also ordered to be part of the case record. I have also gone through the case record with the help of the Ld. Counsels for the both the parties. My Issue wise findings are as follows:-

**ISSUE NO.-1, FOR FINDINGS**

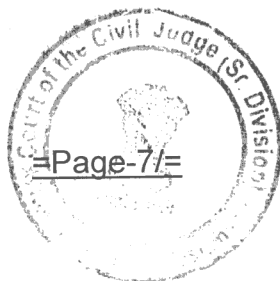
12. The onus of proving this issue was upon the defendants. However, this issue was not pressed, so, it is decided against the defendants.

**ISSUE NO.-3, FOR FINDINGS**

13. This issue is taken up before deciding the issue no.-2 because if the alleged "will" is found fabricated or of fraudulent as pleaded by the defendants then the plaintiff cannot be said to have his right, title and interest over the suit land vide the aforesaid alleged registered "will". The onus of proving this issue was upon the defendants. Both the parties have led their respective evidence and had advanced arguments on this point.
14. Mr. C. Battacharjee, the Ld. Counsel for the defendants in his oral as well as written arguments has argued that the alleged 'will' was a fabricated and of fraudulent one. The defendants challenged the said 'will' by filing a suit before the court of Civil Judge (Jr. Division), Kamalpur, therefore, this court can not hold any decision basing on the contents of the alleged 'will'.
15. On the other hand, Mr. S. P. Datta Purkaystha, the Ld. Counsel for the plaintiff referred the evidence of PWs-2 and 3 and has argued that PW-2 is the scribe of the alleged 'will' and PW-3 was one of the attesting witnesses of the said will and their evidence have well proved the said 'will' (Ext. 11 series) as genuine and being executed by the deceased Raj Kumar Gosh in his good health and mind and without any provocation from any corner. But, the defendants failed to prove that the 'will' was of fabricated and of fraudulent and not executed by the executor Raj Kumar Gosh.
16. Mr. Datta Purkaystha also referred the case law reported in 1995 SCC Suppl.(2) at page-36 and also argued that in the case of registered instrument,

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*S. P. Datta Purkaystha*  
Civil Judge (Sr. Division)  
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presumption can be taken that the instrument was duly executed. He further referred the case law reported in TLR 2014 (Vol. 1), part-3 at page-843 and argued that documentary evidence always prevails over the oral evidence and recitals of the document to be presumed to be correctly made.

17. It was further argued that defendants had earned knowledge of the existence of the will in question and its due execution on 3/11/2004 vides document Ext. 4/3 but they are taking plea of fabrication and fraudulent of the will by this time which is beyond three years after earning knowledge, so, their plea is completely barred by the law of Limitation as provisions of Section 56 of it.

18. No other point was argued.

19. After giving serious thoughts to the rival contentions of the parties in the light of the record of the case, it is observed that defendants failed to prove that the will in question is / was fabricated and of fraudulent, but, the plaintiff could prove that the said will in question was genuine being executed by the executor in good health and mind and without provocation from any corner.

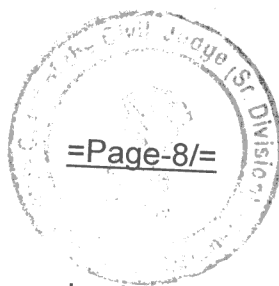
20. **Section 63 of the Indian Succession Act, 1925** defines as to how 'will' shall be executed by the testator as well as to mode of proof and the Section reads as follows:-

**"63. Execution of unprivileged Wills.**—Every testator, not being a soldier employed in an expedition or engaged in actual warfare [or an airman so employed or engaged,] or a mariner at sea, shall execute his will according to the following rules:-

- (a) The testator shall sign or shall affix his mark to the will, or it shall be signed by some other person in his presence and by his direction.
- (b) The signature or mark of the testator, or the signature of the person signing for him, shall be so placed that it shall appear that it was intended thereby to give effect to the writing as a will.
- (c) The will shall be attested by two or more witnesses, each of whom has seen the testator sign or affix his mark to the Will or has seen some other person sign the Will, in the presence and by the direction of the testator, or has received from the testator a personal acknowledgement of his signature or mark, or of the signature of such other person and each of the witnesses shall sign the Will in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary."

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21. From the above provisions it is made clear that onus of proving the will is on the propounder. He has to prove the legality of the execution and genuineness of the will by proving absence of suspicious circumstances surrounding the will and also by proving the testamentary capacity and the signature of testator / executor. For the purpose of valid attestation, it is absolutely necessary that the attesting witness should either sign or affix his thumb-impression or mark.
22. In the case law **reported in AIR 1982 SC 133; (1982) 1 SCC 20, Smt. Indu Bela Bose and others v. Mahindra Chandra Bose and another**, in which the execution and the attestation of the will had not been challenged but only plea was that there had been 'suspicious circumstances' surrounding the execution of the will and the same were not satisfactorily explained by the propounders. In that case, the Hon'ble Apex Court held---"The mode of proving a will does not ordinarily differ from that of proving any other documents except to the special requirement of attestation prescribed in the case of Will by Section 63 of the Succession Act. The onus of proving the will is on the propounder and in the absence of suspicious circumstances surrounding the execution of the Will, proof of testamentary capacity and the signature of the testator as required by the Law is sufficient to discharge the onus. Where, however, there are suspicious circumstances, the onus is on the propounder to explain them to the satisfaction of the court before the court accepts the will as genuine. Even where the circumstances give rise to doubts, it is for the propounder to satisfy the conscience of the court. The suspicious circumstances may be as to the genuineness of the signatures of the testator, the condition of the testator's mind, the disposition made in the will being unnatural, improbable or unfair in the light of relevant circumstances or there might be other indications in the will to show that the testator's mind was not free; In such case there would naturally expect that all legitimate suspicious should be completely removed before the document is accepted as the last Will of the testator. If the propounder himself takes

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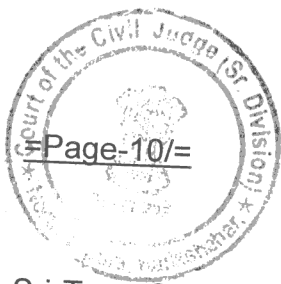
prominent part in the execution of the Will which confers the substantial benefit on him, that is also circumstances to be taken into account, and the propounder is required to remove the doubts by clear and satisfactory evidence. If the propounder succeeds in removing the suspicious circumstances the court would grant probate, even if the will might be unnatural and might cut off wholly or in part near relations.

Needless to say that any and every circumstance is not a 'suspicious' circumstance. A Circumstance would be suspicious when it is not normal or is not normally expected in a normal situation and is not expected by normal person. "

23. It is thus made clear in the above authority and provision of Section 63 that the law as to attestation of Wills is contained in Section 63 of the Indian Succession Act and the mode of proving documents required by law to be attested is laid down in Sections 68 to 72 of the Indian Evidence Act.
24. Section 68 of the Evidence Act deals with proof of the Execution of documents required by law to be attested. It provides that such documents shall not be used as evidence until at least one attesting witness has been called to prove the execution, if there is an attesting witness alive and subject to the process of the Court and capable of giving evidence. Meaning thereby that since the will is required to be attested, so, a Will can be proved as envisaged in Section 68 of the Evidence Act by producing any one of the attesting witnesses, if alive.
25. In the case of N. Karnalam v. Ayyasamy, AIR 2001 SC 2802, THE Apex court held---"Section 63 of the Indian Succession Act read with Section 68 of the Evidence Act and Section 3 of the Transfer of Property Act makes it a mandatory obligation to have the document attested and evidence of such attestation be made available to the court at the time of trial.
26. Here in the present case, the plaintiff is one of the propounders of the will in

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question and he has produced Sri Tanu Sinha, the scribe of the will in question as PW-2 and Rais Miah, alleged attesting witness of the will in question as PW-3 for proving the will in question.

27. PW-2 in his examination in chief has deposed that he wrote the Will in question Ext. 11 series and its contents were read out to the testator and after knowing its contents the testator Raj Kumar Gosh, since deceased put his signature before him and other attesting witnesses of the instrument. He further stated that Raj Kumar Gosh freely and voluntarily of his own will and in good health executed the will Ext. 11 series on 26/2/2001 and the same was registered as per law of the Registration. None provoked him in executing and registering the said will. PW-2 identified the will Ext. 11 series being written by him and also identified his signature and the signature of the testator Raj Kumar Gosh. PW-2 in his cross examination has clarified that none of the family members of Raj Kumar Gosh (testator) had stood as attesting witness of the instrument Ext. 11 series.

28. PW-3, the alleged one of the attesting witnesses of the will in question Ext. 11 series has in his examination in chief stated that he had been well known to the family members of the plaintiff and the defendants and their father Raj Kumar Gosh since deceased. He also stated that on 26/2/2001 Raj Kumar Gosh executed the will in question Ext. 11 series freely of his own accord in his presence and another witness Tarini Debbarma and they also signed in the instrument as attesting witnesses and the said will had been written by PW-2 and its contents were also read out. The witness also identified his signature Ext. 11 series/2 appeared in the instrument Ext. 11 series. PW-3 in his cross examination has clarified that the will Ext. 11 series was executed in the court-yard of the testator in their presence.

29. In the above the PW-2 and PW-3 were not cross examined on the point of writing the will Ext. 11 series and it being attested by PW-3. The evidence of PWs-2 and 3 thus remained un-shattered during cross examination. The PWs-2 and 3 have

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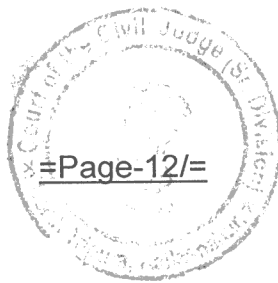
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well proved the will Ext. 11 series as per provisions of Section 68 of the Evidence Act that the will in question Ext. 11 series was not only the physical but also the mental act of the testator Raj Kumar Gosh. By not making any family members of the testator as attesting witness of the will in question the same does not yield any suspicion. Further that on part of the signature of the deceased testator of his acknowledgement that he had signed the will Ext. 11 series, it is presumed that he having known the provisions of the instrument signed it. The Swaranlipi Ext. 4/3 also lends support that the will Ext. 11 series was executed by testator on his own volition and in his good health and mind during his life time.

30. Defendants challenged that the will in question Ext. 11 series is fabricated and of fraudulent. Thus, the onus of proving these allegations is on the defendants. Defendants examined as many as 4 witnesses. DW-1 in his examination in chief has stated that after the death of their father Raj Kumar Gosh, they came to know from DW-2 (mother) that during the life time when DW-2 and her husband Raj Kumar Gosh stayed in the mess of the plaintiff, the plaintiff exercised fraud upon the deceased Raj Kumar Gosh in collusion with deed writer and got executed a fabricated will. DWs-3 and 4 in their evidence have stated that they came to know from DW-2 that when she and her husband Raj Kumar Gosh had been staying in the mess of the plaintiff, the plaintiff obtained signatures of his father Raj Kumar Gosh without informing the contents of the papers. DW-2, the widow of deceased testator in her examination in chief has stated that during their stay in the mess of her plaintiff-son, the plaintiff took some signatures of his father in papers but on query he did not say any thing of it. She further stated that once after signatures of her husband being taken, her son plaintiff took her husband at Kamalpur Town and after few days of it the plaintiff-son started misbehaving with them and thus they bound to leave his mess. She further stated that after the death of her husband, the plaintiff declared that his father Raj

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Kumar Gosh during his life time had executed a Will in his favor, and then only she came to realize that by taking signatures of his father while staying in his mess, the plaintiff had created a fabricated Will.

31. This DW-2 nowhere in her evidence stated that she disclosed the matter of taking signatures of her husband by the plaintiff without letting know the purpose and contents of the paper while they had been staying in the mess of the plaintiff, to DW-1, DW-3 and DW-4. In her cross examination, DW-2 has stated that her husband died about 6/7 years back after residing in the mess of his son Subrata Gosh for about one year. It appears from the will Ext. 11 series that the said will had been executed by the testator Raj Kumar Gosh in the year 2001 more particularly on 26/2/2001. Thus, the evidence of DW-2 that plaintiff started ill treatment to her and her husband after taking signatures of his father and after taking his father at Kamalpur Town can not be believed upon inasmuch as the testator Raj Kumar Gosh died in the year 2007 but the will had been executed in the year 2001. The disclosure of taking signatures of his father by the plaintiff as stated by DWs-1, 3 and 4 is also not believed at all as because DW-2 nowhere in her evidence told that she disclosed the matter to DWs-1, 3 and 4. Though presuming the so called taking signatures of the testator Raj Kumar Gosh by his plaintiff son throws doubtful or suspicion to the will Ext. 11 series but the plaintiff successfully removed that suspicion and doubt by placing materials on record through the PWs-2 and 3. The Will Ext. 11 series is / was genuine document of Will being executed by testator.

32. During argument, the Ld. Counsel for the defendants argued by urging that this court in the present suit cannot render any decision basing on the Will Ext. 11 series as the WILL has been challenged in another court. I find no substantive force to submission of the Ld. Counsel. The defendants did not make any substantive prayer before this court either during trial or before trial for staying this suit under Section 10 of the CPC or for analogous trial of this suit and the

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suit by which the Will Ext. 11 series is allegedly challenged by the defendants before the court of law. Thus, this short of argument is noticed to be rejected and it is rejected.

33. It appears that the defendants' evidence falls much short to sustain discharge of the burden of this issue. The defendants' evidence in essence is nil and the principle of better evidence to prevail where both the parties have led evidence, fail to come to play. Resultantly, this issue is decided against the defendants and in favor of the plaintiff.

**ISSUE NO.-2, FOR FINDINGS**

34. The onus of proving this issue was upon the plaintiff. The plaintiff for proving this issue has produced and placed on record the Will Ext. 11 series, the unregistered memorandum Ext. 4/1, death certificate Ext. 5 and other papers. In the above under issue no.-3, it has been proved that the Will Ext. 11 series was genuine and the memorandum Ext.- 4/1 was also executed by the deceased Raj Kumar Gosh.
35. In bare reading the recitals of the documents Ext. 11 series and Ext. 4/1, it appears that the suit land was bequeathed in favor of the plaintiff by his father Raj Kumar Gosh during his life time by executing the Will Ext. 11 series and the memorandum Ext. 4/1. Death certificate Ext. 5 clearly proved that Raj Kumar Gosh has already died. It is settled that WILL comes to effect only on the death of the testator. The Testator Raj Kumar Gosh died, so, the Will Ext. 11 series comes into effect from the date of death of the testator. The suit land is clearly bequeathed in favor of the plaintiff by the Will Ext. 11 series. The plaintiff, thus, came to have force of his right, title and interest over the suit land from the death of testator Raj Kumar Gosh. The plaintiff, accordingly, got mutated the suit land under Section 46 (2) of the TLR & LR Act in his favor basing on the Will Ext. 11 series. The Will is deemed to be deed of title on the death of the testator. In fine, the Will Ext. 11 series clearly proves that plaintiff has his right, title and interest

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over the suit land. Resultantly, this issue is decided in favor of the plaintiff.

#### **ISSUE NO.-4, FOR FINDINGS**

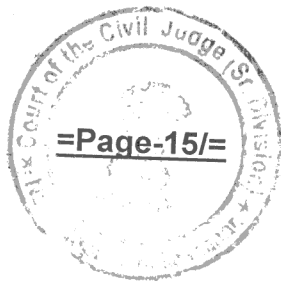
36. The khatiyans Ext. 8 series and the revenue papers Ext. 9 series clearly prove that plaintiff has been possessed the suit land and other land. It is also undisputed that defendants do not challenge the khatiyans Ext. 8 series which thus clearly indicates and proves that plaintiff has been possessed the suit land.
37. Now, the question is whether defendant nos. 1, 2, 3, 4, 5 and 6 tried and trying to dispossess the plaintiff from the suit land. The plea of the defendants is that the suit land is joint property of them and of the plaintiff and the same is not yet partitioned. In the above it has been held that plaintiff alone has his right, title and interest over the suit land. The plaintiff's case is that defendants tried to dispossess him from the suit land and still they are trying the same. Thus, in consolidation the title of the plaintiff in the suit land and that of the plea of the defendants clearly indicates that defendants tried to dispossess the plaintiff from the suit land and still they are trying to do so. Resultantly, this issue is also decided in favor of the plaintiff.

#### **ISSUE NO.-5, FOR FINDINGS**

38. As a result of above discussion and findings held above, the plaintiff is entitled to get decree / decrees as prayed for. Since the plaintiff has well proved the will Ext. 11 series and the memorandum Ext.4/1 as genuine, he is entitled to get declaration of his right, title and interest over the suit land. The plaintiff has also proved that he has been possessed the suit land exclusively, so, he is also entitled get declaration of confirmation of his possession over the suit land. It has also well been proved that defendant nos.-1 to 6 tried to dispossess him from the suit land and it is still going on, so, in view of the spirit of the Section 38 of the Specific Relief Act, the plaintiff is also entitled to get decree for perpetual injunction. Resultantly, this issue is also decided in favor of the plaintiff.

**Contd. at Page-15/-**

28/06/20  
Civil Judge (Sr. Division)  
Kashmir  
Srinagar



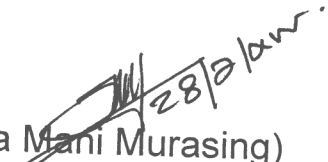
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**ISSUE NO.-6 (RELIEVE)**

39. In view of the above detailed discussion and findings of this court under the above issues, the present suit of the plaintiff is hereby decreed on contest and with costs of the contesting-defendants. The right, title and interest of the plaintiff over the suit land are hereby declared. The possession of the plaintiff over the suit land is also hereby confirmed. The defendant nos. 1 to 6 and their men and agents are hereby perpetually restrained from interfering and creating anywise disturbance with the possession of the plaintiff over the suit land. Decree-sheet be prepared accordingly. File be consigned to records.

Announced in open Court;

Monday, July 28, 2014.

  
(Jestha Mani Murasing)  
Civil Judge (Senior-Division)  
Kailashahar; North Tripura District Judiciary  
Civil Judge (Sr Division)  
Kailashahar  
North Tripura Judicial District

Note: The judgment contains 15-pages and followed with APPENDIX, each of which dictated, corrected, signed and announced in the open court by me.

  
(Jestha Mani Murasing)  
Civil Judge (Senior-Division)  
Kailashahar; North Tripura District Judiciary  
Civil Judge (Sr Division)  
Kailashahar  
North Tripura Judicial District

**APPENDIX follows**



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## **APPENDIX**

**TS.-06 of 2013**

**Satya Ranjan Gosh v. Rakesh Gosh & ors.**

**(A) Plaintiff's Exhibits :**

1. Khatian nos.-493/1, 493/2, 615/1 & 615/2 as-----Ext. 1 series,
2. 11 nos. Revenue papers as-----Ext. 2 series,
3. Registered General power of attorney as-----Ext. 3 series,
4. Memorandum of land allotment as----Ext. 4,
5. Death Certificate of Raj Kumar Gosh as-----Ext. 5,
6. Order dated-29/9/2010 passed by Tripura Information Commission as-----Ext. 6,
7. Sketch map, Noagon Mauza, sheet no.-4(5) as----Ext. 7,
8. Khatian no.-1343 as-----Ext. 8 series,
9. Revenue papers in 8 nos. as -----Ext. 9 series,
10. 4 nos. copies of notice as -----Ext. 10 series, and
11. Will dated-1/03/2001 as -----Ext. 11 series.

**(B) Defendant's Exhibits : Nil.**

**(C) Exhibits produced by witnesses : Nil**

**(D) Court Exhibits : Nil**

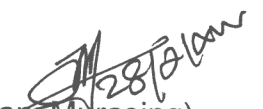
**(E) Plaintiff's Witnesses :**

PW-1---Satya Ranjan Gosh,  
PW-2---Tanu Sinha,  
PW-3---Rais Miah, and  
PW-4---Kshitish Gosh.

**(F) Defendant's witnesses :**

DW-1---Santosh Gosh,  
DW-2---Smt. Usha Rani Gosh,  
DW-3---Birendra Kairi, and  
DW-4---Rakhal Chandra Gosh

**(G) Court Witnesses: Nil**

  
(Jestha Mani Murasing)  
Civil-Judge (Senior-Division)  
Kailashahar, North Tripura District Judiciary  
Civil Judge (Sr. Division)  
Kailashahar  
North Tripura Judicial District

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