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IN THE COURT OF CIVIL JUDGE (JR. DIV.), MIRIK, DARJEELING.

O.C. 02 OF 2015

PUSHPANJALI TAMANG
V
1. CHAIRMAN, MIRIK MUNICIPALITY.
2. COUNCILLOR, MIRIK, MUNICIPALITY.

ORDER DATED 30.09.2019
ORDER NO. 45

Plaintiff is present. As fixed, the record is taken up for passing order.

This is a suit for declaration and consequential reliefs. It appears from the record that the summons have been served upon the defendants. Thereafter the defendants have appeared before this Court. But, subsequently, they did not contest the suit, in spite of several chances given for contest. So, the suit was fixed for ex parte vide order no. 36 dated 30.09.2019 and accordingly, heard on ex parte basis on 07.09.2019.

Plaintiff, **Pushpanjali Tamang**, herself has adduced evidence as PW1 and exhibited the following documents as documentary evidences :-

EXHIBIT 1:- Original deed of conveyance dated 09.01.2013.

EXHIBIT 2 :- Original site map.

EXHIBIT 3 :- Original conversion certificate.

EXHIBIT 4:- Original sanction plan dated 26.09.2013.

EXHIBIT 5:- Original blue print, (approval of building plan).

EXHIBIT 6:- Provisional holding no receipt.

EXHIBIT 7:- Notice dated 06.09.2014 sent by Mirik Municipality.

EXHIBIT 8:- Registered FIR at Mirik P.S.

It reveals from the exhibit no. 1, original deed of conveyance that, plaintiff purchased the suit property (sukhakheta in nature) from one Kailash Gurung. It appears from Exhibit 3 that, after purchasing the same land the plaintiff converted the suit property to 'ghareri' land for her own house construction. After conversion of the said suit property the plaintiff applied for seeking permission from Mirik Municipality for authorised building plan, which was sanctioned on 26.09.2013, Exhibit 4 shows the fact. The blue print regarding the approval of building plan was also exhibited as Exhibit 5. Plaintiff tendered her Affidavit-in-chief, wherein she stated about her right, title and interest of the suit property, details described in the schedule of the plaint. The defendants themselves contradict on their part. Defendants, Municipality herein sanctioned the building plan in plaintiff's favour and further, instructed the plaintiff to stop the construction. Further, it appears to this Court that, after getting several opportunities to contest and to prove their part, the defendants escaped from their own liabilities. Therefore, on perusal and going through all relevant documents this court is of opinion that, the plaintiff came up with her case.

On perusal of the unchallenged testimony of P.W 1 and other materials on record it appears that there is no reason to disbelieve the case of the plaintiff. Plaintiff's case is proved by the evidence of PW1 and

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by the exhibited documents and this court holds that the plaintiff has proved her case.

Court fee paid is correct.

Hence, It is

ORDERED

That the suit be and the same is decreed ex parte against the defendants, but without any order as to costs.

The right, title and interest of the plaintiff in respect of the suit property, details described in the plaint, is hereby declared in plaintiff's favour.

Defendants are permanently restrained from giving any contradictory instruction to the plaintiff regarding the suit property, described in the plaint, in any manne whatsoever.

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