

T.Ex-13/06

27.05.2013:-

The parties are present through their respective learned counsels.

Seen the report of Circle Officer, Teok Revenue Circle wherein it is reported that land measuring 1 Katha 18 Lochas out of 2 Kathas 15 Lochas covered by Patta No.- 1 (RDM), Dag No.-409 of Holongapara Mouza ,Grant No.-160 is lying vacant. The boundary of the said land as stated in the Report is:-

North- Passage to staff quarters of tea garden and vacant land of dag no-408.

South- Land of Sri Benu Beria, s/o Radhia and Sri Dhan Choudhury, s/o Moni.

East- Road and opposite to road land of Sri Kalsa Kalandi.

In the west- Staff quarter.

It is further reported that residence of Sri Dilip Gupta i.e the J.D. is situated over a plot of land measuring 1 katha 14 lochas out of 118 Bighas 1 Katha 8 lechas covered by Dag no-279. And that Dag No.-279 is situated at about 72 feet away from Dag no- 409. The boundary of Dag no-279 as described in the Report of Circle officer is as follows:-

North- Sri Biren Choudhury, s/o Moni and Sri Benu Beria s/o Radhia.

South- Sri Sunil Tanti & staff quarter,

East: Road and on the other side of road land of Noren Tanti.

West: Vacant Land & beside the vacant land, quarter Md Nijam Ahmed. It is further reported that since March, 2005 till today no change of boundary has been seen.

Perused the record which reveals that the suit of the plaintiff was decreed by declaring his right, title and interest over the suit land. Apart from other relief suit was also decreed for recovery of Khas Possession of the suit land by evicting and demolishing the pucca structures raised by the defendants. Accordingly the instant case for execution was filed. However the decree could not be executed in terms of Dag No. and as such vide order dated 14-08-06 my Ld. Predecessor directed to execute the decree in terms of boundary. In the meantime several survey commissions were issued to identify the land and Circle Office vide report dated 11-7-08 stated that the suit land is on Dag no-279 instead of on the suit dag i.e. Dag No. 409. However the boundaries of land of Dag No. 409 and 279 as described by the Circle Officers in their reports did not tallied with the boundary of land described

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in the schedule of plaint. And as such vide order dated 21-1-13 a fresh commission was issued in order to identify the land, wherein Circle Officer, Teok Revenue Circle was asked to submit detail and specific report in respect of the boundaries of the aforesaid land which prevailed on 19-3-05, i.e. the date of filing of the plaint and subsequent boundaries of the aforesaid land on each changes if any occurred from 19-03-05 till date. In view of the above direction, Report dtd 14.03.13 has been submitted by the Circle Officer. Careful perusal of Report reveals that present boundary of both the Dag not does not tally in any way to the schedule of the plaint and as per the Report since the year 2005 no change of boundary occurred in respect of the lands situated in the two Dags. In view of the above facts and circumstances, I am of the considered opinion that the suit land is not identifiable and as such I am constraint to hold that the decree is an in executable one.

Execution case is accordingly disposed of.

(Achma Rahman)

Munsiff No 1, Jorhat.