

Assam Schedule VII. Form No. 132

HIGH COURT FORM NO J (2)
HEADING OF JUDGMENT IN ORIGINAL SUIT
DISTRICT: LAKHIMPUR
IN THE COURT OF THE MUNSIFF NO.1, NORTH LAKHIMPUR,
LAKHIMPUR

WEDNESDAY THE 24th DAY of MARCH 2021

Title Suit No: 43/2020

Present: Ms. Sparsita Garg, M.A, LL.M, AJS
Munsiff No.1, North Lakhimpur,
Lakhimpur.

Sri Satyajeeet James

S/o- Late Samuel James

R/o- Chukulibharia Gaon,

Mouza- Nakari,

P.S.- North Lakhimpur,

District: Lakhimpur, Assam **Plaintiff.**

Versus

1. Sri Jacob Sanga (Munda)

S/o - Jesuwa Sanga (Munda)

2. Smti. Jonaki Sanga

W/o - Sri Jacob Sanga

3. Sri Premuel Sanga

S/o- Sri Jacob Sanga,

All are R/o - Dhekiajuli Gaon,

P.O.- Jariguri - 784160,

P.S.- Laluk, District- Lakhimpur.

..... **Defendants**

This suit coming on for ex-parte hearing on **16th day of March 2021**
in the presence of:-

Sri M.C. Hazarika**Learned counsel for plaintiff.**

Sri P. Buragohain**Learned counsel for defendants.**

T.S. No. 43 of 2020

And having stood for consideration to this **24th day of March 2021**, the court delivered the following Judgment:-

EX-PARTE JUDGMENT

- 1.** This is a suit for registration of sale deed, khas possession and permanent injunction along with other consequential reliefs.
- 2.** The plaintiff's case in brief is that the plaintiff and the defendants were in good terms and defendant no.1 after negotiation offered to sell land measuring 06 bighas to the plaintiff covered by periodic patta no.67, dag nos.64 and 65. The defendant no.1 received an amount of Rs.40,000/- (Rupees Forty Thousand Only) from the plaintiff by executing a deed of agreement on 24.05.2016 in presence of witnesses. Further defendant no.1 executed another agreement on 16.05.2016 for sale of 07 bighas of land by receiving Rs.20,000/- (Rupees Twenty Thousand Only) as advanced consideration. The said agreement was executed in presence of Gaonburha and other witnesses. The consideration amount and the value of 07 bighas of land was fixed at Rs.3,05,000/- (Rupees Three Lakhs Five Thousand Only). Further the plaintiff submitted that defendant no.1 executed a katcha agreement for sale of land on 26.05.2014 and verbally assured the plaintiff that he would cultivate the said land and delivered the share of the produce to the plaintiff and in good faith the plaintiff agreed to allow the defendant no.1 to cultivate the land till execution of the registered sale deed. The defendant no.1 neither executed the sale deed nor delivered the crop from the land of the plaintiff for which the plaintiff sent a notice through his advocate on 23.04.2018 for registering the sale deed in the name of the plaintiff. The defendant no.1 failed to register the sale deed and never delivered paddy to the plaintiff. The plaintiff further submitted that the defendant no.1 arrived at the office of Circle Officer, Bihpuria for execution of the sale deed but he fled away from the office making

himself untraceable. Therefore, the plaintiff has arrayed the wife and son of defendant no.1 in the instant suit. In the absence of defendant no.1, defendant nos. 2 and 3 are liable to execute the sale deed on behalf of defendant no.1. Hence, this suit.

- 3.** The defendants received summon but did not contest the proceeding for which the suit proceeded ex-parte.
- 4.** I have heard learned counsel for the plaintiff and also gone through the evidence on record. The plaintiff in support of his case examined four witnesses and all the witnesses corroborated the evidence of the plaintiff. The evidence of the witnesses remained un rebutted. The evidence of the plaintiff regarding the transaction between him and defendant no.1 goes to show that the defendant no.1 executed an agreement to sell 06 bighas of land in favour of the plaintiff by receiving Rs.40,000/- (Rupees Forty Thousand Only) and thereafter another agreement was executed by defendant no.1 for sale of 07 bighas of land at consideration of Rs.3,05,000/- (Rupees Three Lakhs Five Thousand Only) and Rs.20,000/- (Rupees Twenty Thousand Only) as advanced consideration. Further the plaintiff exhibited five documents to show that defendant no.1 was allowed to cultivate land by the plaintiff with a condition that he will give a share of the crops grown from the suit land but this agreement was executed by defendant no.1 and not by defendant nos. 2 and 3. The plaintiff submits that defendant no.1 thereafter did not execute the sale deed for which he was served with notice by the plaintiff but no response has been received from defendant no.1. The pleadings as well as evidences of the plaintiff side clearly show that all the agreement was executed by defendant no.1. The plaintiff himself stated that defendant no.1 is the exclusive owner of the land proposed to be sold to the plaintiff. Thus it appears that defendant nos.2 and 3 are not the owner of the land. Neither they received any money from the plaintiff nor they are connected with the transaction took place between the plaintiff and defendant no.1. The defendant nos. 2 and 3 have been wrongly arrayed as

defendants in the instant suit. It further appears that plaintiff has failed to show that the entire amount has been paid to defendant no.1. What the plaintiff could show is that defendant no.1 received Rs.60,000/- (Rupees Sixty Thousand Only) and not the entire consideration amount. The katcha deed of transfer of land is not a lawful one as for sale of land for any immovable property whose value is more than Rs. 100/- (Rupees One Hundred Only) is required to be compulsory registered. Considering the discussions made above, it is found that the plaintiff is not entitled to get a decree for execution of sale deed by defendant nos. 2 and 3. Thus the plaintiff is not found entitled to any relief as prayed for.

5. In the result the plaintiff's suit is dismissed without cost.
6. Prepare a decree accordingly.

Given under my hand and seal on this 24th day of March, 2021 at
North Lakhimpur , Lakhimpur.

Ms. Sparsita Garg
Munsiff No.1,
North Lakhimpur, Lakhimpur

A P P E N D I X

7. WITNESS OF PLAINTIFF SIDE:

1. P.W-1: Sri Satyajeet James
2. P.W-2: Sri Rajen Dutta
3. P.W-3: Sri Ajit Phukan
4. P.W-4: Sri Sida Borah

8. EXHIBITS OF PLAINTIFF SIDE:

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| 1. Exhibit 1 | : Agreement for sale between plaintiff and defendant |
| 2. Exhibit 1(1) & 1(2) | : Signature of defendant no.1, signature of Gaonburha and signature of witnesses |
| 3. Exhibit 2 | : Agreement |
| 4. Exhibit 2(1) & 2(2) | : Signature of defendant no.1 |
| 5. Exhibit 3 | : Advanced money receipt dated 24.05.2016 |
| 6. Exhibit 3(1) & 3(2) | : Signature of defendant no.1 along with signature of witnesses |
| 7. Exhibit 4 | : Agreement paper |
| 8. Exhibit 4(1) | : Signature of defendant no.1 |
| 9. Exhibit 4(2) to 4(4) | : Name and signature of drafter Sri Ajit Phukan |
| 10. Exhibit 5 | : Part of an agreement |
| 11. Exhibit 5(1) to 5(9) | : Signatures of defendant nos.1, 2 and 3 |
| 12. Exhibit 6 & 7 | : Land revenue receipts |
| 13. Exhibit 8 | : Duplicate copy of notice |
| 14. Exhibit 8(1) | : Original receipt of sending notice |

9. WITNESS OF DEFENCE SIDE: NIL

10. EXHIBITS OF DEFENCE SIDE: NIL

(Ms. Sparsita Garg)
Munsiff No.1
North Lakhimpur, Lakhimpur