

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A_
CRP No.06 of 2023

Shri Netai Chandra Paul and others

.....Petitioner(s)

V E R S U S

Smt. Sikha Rani Paul and others

.....Respondent(s)

For Petitioner(s) : Mr. R.R. Datta, Advocate.

For Respondent(s) : None.

HON'BLE THE CHIEF JUSTICE (ACTING)

ORDER

01.03.2023

Heard Mr. R.R. Datta, learned counsel appearing for the petitioners. No representation is made on behalf of the respondents.

[2] The present revision petition has been filed by the petitioners under Article 227 of the Constitution of India for setting aside the order dated 06.01.2023 passed by the learned District Judge, Gomati District, Udaipur in Civil Misc(Appeal) No.03 of 2022.

[3] The case of the petitioners is that they filed Civil Misc (Appeal) No.03 of 2022 before the learned District Judge, Gomati District against the judgment and order dated 23.03.2022 passed in Civil Misc (Violation) No.01 of 2020 but the same was dismissed without appreciating the fact properly and without exercising the jurisdiction in accordance with law. Aggrieved by the order of the learned District

Judge, the instant revision petition has been filed by the petitioners seeking the following reliefs :

- “(i) Admit the petition;
- (ii) Issue notice upon the respondents;
- (iii) Call for the records of Civil Misc (Appeal) No.03 of 2022 from the court of Learned District Judge, Gomati District, Tripura and the record of Civil Misc (Violation) No.01 of 2020 from the court of the learned Civil Judge, Junior Division, Amarpur, Gomati District;
- (iv) After hearing the petition the Hon’ble Court may be pleased to set aside the order dated 06.01.2023 in Civil Misc (Appeal) No.03 of 2022 passed by Learned District Judge, Gomati District, Tripura and the judgment and order dated 06.01.2023 in Civil Misc (Violation) No.01 of 2020 passed by the learned Civil Judge, Junior Division, Amarpur, Gomati District, Tripura;
- (v) In the interim stay the operation of the order 23.03.2022 in Civil Misc (Violation) No.01 of 2020 passed by the learned Civil Judge, Junior Division, Amarpur, Gomati District, Tripura for execution of the said order till disposal of this revision petition.”

[4] Mr. R.R. Datta, learned counsel appearing for the petitioners contends that the learned court below has committed an error in passing the impugned order. He further asserts that the learned court below ought to have taken into consideration that the complaint and counter complaint are yet to be decided by the concerning court below, more so, without affording any opportunity to the counsel for the parties the case was decided. He further contends that on account of illness, the engaged counsel could not put in appearance before the trial court and the petitioners should not suffer for non-appearance of the engaged counsel. Subsequently, he prays for setting aside the order dated 06.01.2023 passed by the learned District Judge, Gomati District, Udaipur in Civil

Misc (Appeal) No.03 of 2022. On the other hand, no representation is made on behalf of the respondents.

[5] After hearing learned counsel for the petitioners, this Court finds no reason to interfere with the order passed by the learned trial Judge, however, having considered the contention made by the learned counsel for the petitioners that the engaged counsel was medically unfit and having considered the medical reports submitted, this Court takes a lenient view and remands the matter back to the appellate court to decide the case on merits. The order dated 06.01.2023 passed by the learned District Judge, Gomati District, Udaipur in Civil Misc(Appeal) No.03 of 2022 is set aside and the same is remanded back to the trial court for consideration afresh. It is further directed that the counsel appearing for the petitioners before the court below shall cooperate with the proceedings without prolonging the matter.

[6] In view of the above, the instant revision petition is disposed of. Pending application(s), if any, also stands disposed of.

CHIEF JUSTICE (ACTING)

Dipesh