

**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.12/2023

Hindustan Steel Works Construction Ltd.

.....Petitioner(s).

V E R S U S

Sri Bishnupada Saha & others

.....Respondent(s).

For Petitioner(s) : Mr. Pradip Chakraborty, Advocate,
Mr. P.K. Chakraborty, Advocate.

For Respondent(s) : None.

HON'BLE THE CHIEF JUSTICE (ACTING)

Order

16/03/2023

Heard Mr. Pradip Chakraborty, learned counsel appearing for the petitioner.

2. This instant revision petition has been filed by the petitioner under Article 227 of the Constitution of India challenging the order dated 24.11.2022 passed by the learned Civil Judge, Junior Division, Kailashahar, Unakoti District in case No. Civil Misc.(Review) 01 of 2022 arising out of T.S. case No.36 of 2018 whereby the learned Judge has dismissed the petition filed by the petitioner herein seeking review of the order dated 30.06.2022.

3. Petitioner has prayed for the following reliefs:

- "(i) Admit the petition;
- (ii) Call for the records;
- (iii) Issue notice upon the respondents; AND -
- (iv) After hearing the parties set aside the Order dated 24-11-2022 passed by Sri Amarjit Datta, Ld. Civil Judge, Jr. Division, Kailashahar, Unakoti Judicial District in Civil Misc (Review) 01 of 2022 arising out of T.S. 36 of 2018;
- (v) Pass such other order/orders as this Hon'ble Court deem fit and proper in the facts and circumstances of the case."

4. The background facts of this case are that the plaintiff-respondent No.1 Sri Bishnupada Saha filed a suit being T.S. No.38 of 2018 in connection with a letter dated 16.07.2018 issued by the Hindustan Steel Works Construction Limited (HSCL), petitioner herein, invoking bank guarantee amounting to Rs.15,31 lakhs on United Bank of India as illegal and arbitrary along with a prayer for perpetual injunction. Defendant No.1-petitioner herein contested the suit by filing written statement and during pendency of the suit, petitioner filed an application for amendment of the written statement which was allowed. But inadvertently, the petitioner side could not submit their amended written statement on the fixed date and the trial Court by order dated 30.06.2022 did not allow further time and fixed the case on 16.08.2022 for hearing on framing of issues. Thereafter, the petitioner filed an application being Civil Misc.(Review) No.01 of 2022 seeking review of

the order dated 30.06.2022 which was rejected by the trial Court vide order dated 24.11.2022. Aggrieved thereby, the petitioner has filed this revision petition. Hence, this case.

5. Mr. Pradip Chakraborty, learned counsel appearing for the petitioner, contends that the learned trial Court without considering the prayer made by the petitioner and also without applying its judicious mind straightway rejected the application filed by the petitioner seeking review of the order dated 30.06.2022. Counsel also contends that the grounds for non-filing of the amended written statement were genuine and there was also no fault or laches on the part of the petitioner and as a result, the impugned order is not sustainable in law. Accordingly, he prays for setting aside the order dated 24.11.2022 passed by the learned Civil Judge, Junior Division, Kailashahar, Unakoti District in case No. Civil Misc.(Review) 01 of 2022 arising out of T.S. case No.36 of 2018.

6. In view of the submission of the learned counsel for the petitioner, this Court is of the considered view that the learned trial Judge without affording any scope to the petitioner to file their amended written statement straightway rejected their application. This Court is also of the considered opinion that the learned Judge ought to have more vigilant while passing the impugned order and the same needs interference of this Court. Accordingly, the revision petition is allowed.

The impugned order dated 24.11.2022 passed by the learned Civil Judge, Junior Division, Kailashahar, Unakoti District in case No. Civil Misc.(Review) 01 of 2022 arising out of T.S. case No.36 of 2018 is set aside and the matter is remanded back to the learned trial Court to accept the amended written statement if so filed by the petitioner. The period of limitation which is mentioned and dealt with under Order VI Rule 18 is hereby relaxed and the petitioner is directed to appear before the learned trial Court on or before **23.03.2023** to again present the amended written statement and on presenting the same, the Court below shall accept the amended written statement.

7. With the above observations and directions, the revision petition stands disposed of.

Pending application(s), if any, also stands disposed of.

8. Furnish a copy of this order to the learned counsel for the petitioner by today.

CHIEF JUSTICE (ACTING)

Pulak