

**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.33 of 2024

Smt. Kalpana Chakma

.....Petitioner(s);

Versus

Sri Mantu Lal Saha & others

.....Respondent(s)

For Petitioner(s) : Mr. Anthony Debbarma, Advocate.

For Respondent(s) : None.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

24/05/2024

Four plaintiff-witnesses were examined; the last one being PW 1 was examined and discharged on 27.02.2024. However, originals of two documents i.e. the death and survival certificates of Chittaranjan Dewan could not be exhibited due to oversight by the learned counsel representing the plaintiff. Therefore, petitioner filed a petition under Order XVIII Rule 17 of the Code of Civil Procedure read with Section 151 of CPC for re-calling PW 1 namely Kalpana Chakma, which has been rejected by the impugned order dated 19.03.2024 by the learned Court of Civil Judge (Jr. Division), Longtharai Valley, Dhalai Tripura passed in T.S. 01 of 2022 with an observation that the examination of the plaintiff-witnesses have continued for seven months and within that span of time, seven different dates were fixed. Even one specific date was fixed by the Court for submission of original documents along with examination of PW 1 to present their case before the Court. On that date, PW 1, after being examined, was discharged. Any further opportunity to allow plaintiff to recall his witness to exhibit few documents which he claims to have been overlooked during examination of PW 1, would cause further delay in the

adjudication of the suit. On the other hand, defendant filed a petition on the same day for adjournment as they were not able to procure few documents which were important for preparing their examination-in-chief on affidavit. They prayed for another date for submission of examination-in-chief on affidavit. Such prayer was allowed by way of last and final chance and the next date was fixed on 19.04.2024.

2. Mr. Anthony Debbarma, learned counsel for the petitioner, submits that these documents being the original death and survival certificates of Chittoranjana Dewan were two out of eight documents which were to be exhibited by the plaintiff-witnesses. However, on the day PW 1 was examined, these documents could not be exhibited. The original death and survival certificates of Chittoranjana Dewan are vital for the case of the plaintiff. It is submitted that the examination of defendant-witnesses has not yet started. Therefore, if one opportunity is allowed to re-examine PW 1, plaintiff shall be able to exhibit the vital documents including these two documents.

3. It appears from the submission of learned counsel for the plaintiff/petitioner that the examination of defendant-witnesses has not yet commenced though time has been allowed to defendants to submit their examination-in-chief on affidavit. Therefore, in the opinion of this Court in case the defendant-witnesses have not been examined, the petitioner be allowed one opportunity to re-examine PW 1 in order to adduce the relevant documents which were submitted on 12.04.2023 during the documentary stage. Learned counsel for the petitioner has undertaken that if such an opportunity is allowed,

the PW 1 would be produced on the same date. He submits that as per his instruction, the next date fixed is 06.06.2024.

4. In such circumstances, this Court is of the opinion that the learned Trial Court would grant one opportunity to the petitioner to re-examine PW 1 (plaintiff herself) in order to adduce the above documents. As such, the instant petition is disposed of.

(APARESH KUMAR SINGH), CJ



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