

**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.64 of 2024

Shri Uttam Das, S/o Late Surendra Chandra Das, resident of East Gokulnagar,
PO-Gakulnagar, P.S.- Bishalgarh, District- Sepahijala Tripura, PIN-799102

.....Petitioner(s);

Versus

1. Sri Keshab Sarkar, S/o Late Nishi Kanta Sarkar resident of East Gokulnagar,
PO-Gakulnagar, P.S.-Bishalgarh, District- Sepahijala Tripura, PIN-799102

2. Sri Jadab Sarkar, S/o Late Nishi Kanta Sarkar resident of East Gokulnagar,
PO-Gakulnagar, P.S.- Bishalgarh, District- Sepahijala Tripura, PIN-799102

.....Respondent(s)

For Petitioner(s) : Mr. Kundan Pandey, Advocate.

For Respondent(s) : None.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

26/07/2024

Heard Mr. Kundan Pandey, learned counsel for the petitioner.

2. By the impugned order dated 12.06.2024 passed in T.S. No.97 of 2016, the learned Civil Judge (Sr. Division), Sepahijala, Sonamura has refused to grant further adjournment to the plaintiff to produce a witness Rakhal Ch. Roy, who was a Surveyor of Bishalgarh Revenue Circle and had submitted a demarcation report before the DCM, Bishalgarh Revenue Circle on 02.11.2015 including two hand sketch maps.

3. Mr. Kundan Pandey, learned counsel for the petitioner, submits that the plaintiff No.1 & 3 were examined on 03.02.2024 and discharged. Thereafter an application was made on the same date for issuance of summons upon the said witness. The Court allowed the application on 15.03.2024 and issued summons upon the said witness posting the case for service report. Thereafter since the witness did not turn up, the learned Court directed to

submit fresh requisites for summons within seven days. Petitioner contends that the said witness had retired from service and changed his residential address. When the case was fixed on 22.05.2024 due to the ongoing Lok Sabha Elections, 2024, petitioner could not collect his address. He sought an adjournment and the matter was fixed on 12.06.2024. On that date, the plaintiff-petitioner again made an application before the Sub-Divisional Magistrate, Bishalgarh for seeking his address. He was informed that the address of the said witness would be supplied within a week. But the learned Trial Court rejected application for adjournment and closed the PWs. The matter was fixed on 25.06.2024 for examination-in-chief of the defendant witnesses. Thereafter till date, the defendants have not submitted their examination-in-chief. As such, the examination of the defendant witnesses has not commenced. Learned counsel for the petitioner further submits that if an indulgence is granted, petitioner is ready to produce the said witness on the next date fixed on 28.08.2024. As such, this Court may direct the learned Trial Court to entertain the application of the plaintiff-petitioner for examination of the only left solitary witness on the next date.

4. I have taken note of the relevant dates as have been pleaded and are borne from record. It appears that there has not been inordinate delay on the part of the plaintiff in seeking presence of witness who was the Surveyor in connection with the dispute between the parties relating to the suit land. The plaintiff-witnesses No.1 & 3 have been examined and discharged on 03.02.2024. In the meantime, even after summons since the said witness had retired, his residential address was changed and despite efforts made by the

plaintiff, he could not procure the correct address from the concerned office of Bishalgarh Revenue Circle within time. This led to rejection of his request for one more indulgence to produce the said witness. However, since petitioner is ready and willing to produce the said witness on the next date and that as per his statements the examination of defendant witnesses has not started, therefore, this Court feels that the learned Court may grant him one more indulgence on the next date fixed to produce his witness, examine him and upon cross examination discharge him also on the same date.

5. With the aforesaid observations, the instant revision petition is disposed of. In view of the observations made hereinabove, the learned Trial Court would not be precluded from allowing one indulgence to the petitioner to produce the said witness on the next date even though such request was refused earlier.

6. Let Registry of this Court communicate the instant order to the learned Trial Court forthwith.

(APARESH KUMAR SINGH), CJ

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