

**HIGH COURT OF TRIPURA  
AGARTALA**

**CRP No.73/2024**

1. Smti. Maya Deb (Sarkar), W/O. Late Mounabrata Sarkar,  
2. Sri Mainak Sarkar, Son of Late Mounabrata Sarkar.  
Both are residents of Madhya Para, Ward No.1 of Belonia Municipal Council, P.O. & P.S.: -Belonia, District-South Tripura, PIN:-799155.  
..... Petitioner(s).

**V E R S U S**

1. Smti. Kabita Rani Das (Sarkar), W/O. Late Subrata Sarkar,  
2. Shri Supratim Sarkar, S/O. Late Subrata Sarkar,  
3. Shri Subhrajit Sarkar, S/O. Late Subrata Sarkar.  
All are residents of Madhya Para, Ward No.1 of Belonia Municipal Council, P.O. & P.S.: -Belonia, District-South Tripura, PIN:-799155.  
.....Respondent(s).

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| For Petitioner(s) | : Mr. P.K. Pal, Advocate,<br>Mr. S. Datta, Advocate,<br>Mr. Abhinandan Pal, Advocate. |
| For Respondent(s) | : None.                                                                               |

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**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH**

**Order**

**23/08/2024**

Heard Mr. P.K. Pal, learned counsel for the petitioners who are the judgment debtors in Execution (T) No.04 of 2022. Execution case has been instituted by the plaintiffs on the strength of the judgment and decree dated 30.07.2018 and 01.08.2018 respectively passed in T.S. No.01 of 2015.

2. Petitioners filed an objection under Section 47 of the Civil Procedure Code (CPC, for short) bearing Civil Misc. case No. 15 of 2023 in the said execution case objecting to the executability of the decree dated 01.08.2018. Thereafter, they filed an application under Section 151 of the CPC in the same application under Section 47 of the CPC to add certain pleadings on behalf of the judgment debtors No.1 and 2. That has been rejected by the

impugned order dated 12.07.2024 by the Court of learned Civil Judge (Sr. Division), Court No.1, South Tripura, Belonia holding, *inter alia*, as under:

"9. Have heard both the sides and have also gone through the application of the Petitioner/Judgment debtors as well as the case records.

10. From the application of the Petitioner/Judgment-debtors filed under section 151 of the Code of Civil Procedure, it appears that the proposed amendment or addition of pleading sought by the Petitioner/Judgment debtors at page 3 after para 5 in the application are all mentioned in the judgment dated 30.07.2018 and final decree dated 01.08.2018 of the original suit being No. Title Suit-01 of 2015 and in the Execution petition being case No. Ex. (T) 04 of 2023. As such it cannot be said that the Opposite parties/Decree holders has given misleading statement or information in their Execution Petition being case No. EX. (T) 04 of 2023.

11. The predecessor of Smt. Kabita Rani Das (Sarkar) namely, Lt. Subrata Sarkar filed a suit being No. Title Suit-01 of 2015 for declaration of title over the suit scheduled properties, and the suit was decreed on contest on 30.07.2018. Against the said judgment and decree the defendant Monabrata Sarkar (now deceased) and Mayarani Deb (Judgment debtor No.1) filed a First Appeal before the Hon'ble High Court of Tripura being case No.RFA 18 of 2018, but the said appeal was dismissed. That against the said decision no appeal was preferred by the Petitioner/judgment debtors in any appellate Forum. Meanwhile the Opposite parties/Decree-holder died intestate leaving behind his wife Smt. Kabita Rani Das (Sarkar) and sons Sri Supratim Sarkar and Sri Subhrajit Sarkar and on the basis of the Survival certificate they have filed the Execution petition for execution of the decree.

12. The Petitioner/Judgment debtors did not filed any appeal against the judgment and order dated 20.04.2021 of the Hon'ble High Court of Tripura in connection with Case No. RFA 18 of 2018. The proposed amendment or addition of pleading sought by the Petitioners/Judgment debtors are all mentioned in the judgment dated 30.07.2018 and final decree dated 01.08.2018 of the original suit being No. Title Suit 01 of 2015 and also in the Execution petition being No. Ex.(T) 04 of 2023. So, the application filed by the Petitioners/Judgment debtors under section 151 of the Code of Civil Procedure cannot be considered being devoid of merit.

13. Accordingly, the application filed under Section 151 of the Code of Civil Procedure by the Petitioners/judgment debtors 1 and 2 for amendment/addition of pleading in the instant application under section 47 of the Code of Civil Procedure is hereby rejected.

14. Next date be fixed for hearing on the application filed under section 47 of the Code of Civil Procedure.

Fix 24.07.2024 for hearing."

3. It appears upon hearing learned counsel for the petitioners and after going through the impugned order that the amendment proposed to the Section 47 petition intends to incorporate the description of the suit land which, according to the petitioners, is not reflected in the execution petition. The learned Executing Court, however, has come to a categorical finding that

proposed amendment or addition of pleadings sought by the petitioners/ judgment debtors are all mentioned in the judgment dated 30.07.2018 and final decree dated 01.08.2018 of the original suit being T.S. No.01 of 2015 and so also in the execution petition being Ex. (T) No.04 of 2022. Therefore, the application filed by the Judgment debtors/petitioners herein under Section 151 of the CPC cannot be considered as it is devoid of merit.

4. Learned counsel for the petitioners submits that the objection under Section 47 of CPC is to execution of the judgment and decree which may go beyond the description of the suit land.

5. The Executing Court is to execute only the suit land described in the decree in question, then there is no reason to apprehend the execution of the decree beyond the suit land described in the judgment and decree.

6. In that view of the matter, the instant petition is disposed of without interfering in the impugned order. Needless to say, petitioners have already preferred a petition under Section 47 of the CPC before the Executing Court in respect of the decree in question. Petitioners are at liberty to press the Section 47 petition before the learned Executing Court on the available grounds.

7. The instant revision petition stands disposed of accordingly.

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

**(APARESH KUMAR SINGH), CJ**

*Pulak*

**SIDDHARTHA LODH**

Digitally signed by SIDDHARTHA

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