

**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.109 of 2024

1. Sri Swapan Kar, S/o Lt. Mano Ranjan Kar, aged 70 years
 2. Sri Rabindra Kar, S/o Sri Swapan Kar, aged 48 years
 3. Sri Shamal Kar, S/o Sri Swapan Kar, aged 46 years
 4. Sri Kamal Kar, S/o Sri Swapan Kar, aged 44 years
 5. Sri Parimal Kar, S/o Sri Swapan Kar, aged 42 years
- All residents of village & P.O- Rabindra Nagar, Ward No.2, P.O- Sonamura, District- Sepahijala Tripura

.....Petitioner(s)

Versus

1. Atiqul Islam, S/o Lt. Ala Uddin
 2. Manik Miah, S/o Lt. Ala Uddin
 3. Rafiqul Islam, S/o Lt. Ala Uddin
- SL. No. 1 to 3 are resident of village- Durgapur, P.O & P.S- Sonamura, District- Sepahijala Tripura
4. Smt. Jaheda Khatun, D/o Lt. Ala Uddin, W/o Suruj Miah
 5. Smt. Hirna Begum, D/o Lt. Ala Uddin, W/o Fajal Haque
- SL. No. 4 & 5 are the residents of village- Aralia, P.S- Sonamura, District- Sepahijala Tripura

.....Respondent(s).

For Petitioner(s) : Mr. Dipak Deb, Advocate.

For Respondent(s) : None.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

11/12/2024

Heard Mr. Dipak Deb, learned counsel for the petitioners.

2. By the impugned order dated 11.07.2024, the learned Civil Judge (Sr. Division), Sepahijala, Sonamura has rejected the application seeking leave to adduce additional documents under Order VIII Rule 1-A(3) of the CPC by the defendants.

3. The evidence of both the sides has been completed and the case is at the stage of arguments. The defendants have sought to adduce additional

documents in the nature of record of rights, a field inquiry report of Tehsildar and an information obtained through RTI from Dhanpur Revenue Circle at this stage. Learned counsel for the petitioners has referred to para 22 of the written statement in order to submit that there is a reference to the documents therein which are now being sought to be adduced as they were not in the physical custody of the petitioners and have been obtained after exercising due diligence and obtaining information under RTI.

4. A perusal of para 22 of the written statement however shows the statement of the defendants that they are relying on the irrevocable power of attorney, exchange deed and other relevant documents at the time of hearing, report of Tehsildar under Section 145 Cr.P.C proceedings. Evidently these documents were not enclosed. The list of documents filed at the time of filing of written statement did not refer to these documents. The record of rights or information obtained under RTI are not referred to in this paragraph of the written statement. Moreover, the learned Trial Court has rightly held that defendants have not based their defense on the basis of the documents which are now being sought to be adduced to prove their case at the stage of arguments. After referring to the provisions of Order VIII Rule 1-A(3), the learned Court refused to allow leave to reopen the evidence by adducing any additional document which was beyond the pleadings.

5. Upon hearing learned counsel for the petitioners and after taking note of these material facts placed from record, this Court does not find any error in the impugned order. The suit is of the year 2021. Written statement was filed on 10.12.2021 and these additional documents have been sought to be

adduced on 25.04.2024 when evidence of both sides are complete and the case is at the stage of arguments. In such circumstances, this Court is satisfied that the impugned order does not warrant any interference. The instant petition is dismissed.

6. Pending application(s), if any, shall stand disposed of.

(APARESH KUMAR SINGH), CJ



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