

**HIGH COURT OF TRIPURA
AGARTALA
CRP No.61 of 2023**

Sri Aloke Chakraborty @ Pintu Chakraborty & others

.....Petitioner(s);

Versus

Sri Jiban Chakraborty & others

.....Respondent(s)

For Petitioner(s) : Mr. Dipjyoti Paul, Advocate.

For Respondent(s) : Mr. S.M. Chakraborty, Sr. Advocate,
Ms. Ankita Pal, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

14/03/2024

Heard Mr. Dipjyoti Paul, learned counsel for the petitioners and
Mr. S.M. Chakraborty, learned senior counsel for the respondents.

Reference is made to the order dated 14.12.2023 which reads as
under:

“Title Suit No.10 of 2013 has been instituted by the respondent-plaintiff for declaration of right, title, interest and recovery of possession. The learned Civil Judge, Jr. Division, South Tripura, Belonia has allowed the amendment application preferred by the plaintiff on 16.10.2023 to introduce two documents; (i) registered kabuliyat dated 18.04.1956 and the copy of the CS Khatian with which the defendant/petitioner is aggrieved. After closure of the plaintiff evidence, the suit is at the stage of defendant evidence. The learned trial Court appears to have taken into consideration the plea taken by the plaintiff and the grounds of objection urged by the defendants and come to a finding that the proposed amendment would elucidate the real matters in controversy and whereas no inconsistent facts are being sought to be brought on record.

Mr. P. Roy Barman, learned senior counsel for the petitioner submits that after 10 years of institution of the suit when the case of the defence is disclosed, allowing such an amendment causes injury to the defendant side and no explanation worthwhile for the delay in seeking such an amendment of documents which were well within the knowledge of the plaintiff has been given. It is also pointed out that assumingly the trial Court was satisfied that the proposed amendment would lead to determination of the real matters in controversy, the amendments have been allowed without even imposing any exemplary cost.

Though this Court is not inclined to express any opinion on the findings of the learned trial Court at this stage without hearing the other side but it appears that if the amendment has been allowed at this stage of the suit, the learned trial Court ought to have considered the grant of reasonable cost on the other side. In that view of the matter, let notice issue upon the plaintiff-respondents under ordinary process and also through the learned court of Civil Judge, Jr. Division, Belonia, South Tripura to be served upon the plaintiffs through the learned counsel representing him in the suit. Requisites in both modes be filed within one week. Service report be sent within three weeks thereafter.

Notice is made returnable on *19th January, 2024.*”

Mr. S.M. Chakraborty, learned senior counsel for the respondents, submits that from a bare reading of the contents of the petition and the order dated 14.12.2023 passed by this Court on the submission of learned counsel for the petitioners, it appears that the grievance of the petitioners revolves around the non-awarding of reasonable cost while allowing the amendment application of the plaintiffs/respondents herein at a stage when the defence evidence was going to commence. The plaintiffs had in their amendment application volunteered to pay reasonable cost [Annexure-3]. Therefore, they are not averse to payment of any reasonable cost as this Court may deem fit, since the amendments allowed by the learned Trial Court by the impugned order are in furtherance of the principles guiding Order VI Rule 17 CPC in order to arrive at a complete adjudication of all the issues on facts on contest between the parties. If these two documents allowed to be adduced by the plaintiffs are material for the purposes of a proper adjudication, the approach of the learned Trial Court cannot be faulted under Article 227 of the Constitution of India as the Trial Court was well within the bounds of jurisdiction.

Mr. Dipjyoti Paul, learned counsel for the petitioners, has however reiterated his submissions. He submits that amendment after 10 years of the institution of the suit in the plaint should not have been allowed as the entire case of the defence has been disclosed by that time.

On consideration of rival submission of the parties and the materials on record and after going through the impugned order, this Court is of the view that the proposed amendments allowed by the learned Trial Court relate to the matter in controversy. The amendments have been proposed in the

midst of the trial. Therefore, this Court does not find any valid reason to disallow the amendments since they may be relevant materials for enabling the learned Trial Court to arrive at a proper and complete adjudication of the dispute between the parties. However, it appears that the learned Trial Court has failed to award reasonable cost in favour of the defendants while allowing the amendments.

As such, this Court is of the opinion that interest of justice would be served if the plaintiffs/respondents herein are directed to pay cost of Rs.7,500/- to the defendants/petitioners herein within a period of two weeks.

The instant revision petition stands disposed of accordingly.

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

(APARESH KUMAR SINGH), CJ

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