

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A
CRP No.04 of 2025

Smt. Shipra Prava Banik, wife of late Dulal Chandra Banik, resident of Purba Pratapgarh, Agartala-799004, P.S. East Agartala, District- West Tripura.

..... *Petitioner(s)*

V E R S U S

Sri Brajahari Das, son of late Amrit Das, resident of Kulkamini Tilla, Jogendranagar, Agartala-799004, P.S. East Agartala, District- West Tripura.

..... *Respondent(s)*

For Petitioner(s) : Mr. Saugat Datta, Advocate,
Mr. Pulak Saha, Advocate.

For Respondent(s) : Mr. G.S. Das, Advocate,
Mr. Subhankar Deb, Advocate,
Mr. Kushal Deb, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

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05/03/2025

Heard Mr. Saugat Datta, learned counsel for the petitioner and Mr. G.S. Das, learned counsel for the respondents.

By the impugned order dated 27.08.2024 passed in T.S.(CC) No.10 of 2022, the application dated 15.04.2024 of the counter-claimant i.e. the petitioner for summoning the District Sub Registrar of Agartala by invoking Order XVI Rule 6 of CPC read with Section 151 of CPC has been rejected on the ground that copy of the application could not be served upon the plaintiff.

Learned counsel for the petitioner submits that the date of the application under Order XVI Rule 6 of CPC has inadvertently been typed as 15.04.2021 whereas it was dated 15.04.2024. Learned counsel for the

petitioner submits that the prayer for summoning the District Sub Registrar has been made for production of the registered sale deed No.1-334 dated 14.01.1980 which is necessary to prove the case of the defendant counter-claimant. The counter-claimant has made a specific statement in his written statement at paragraph 8 and also in the counter claim at paragraph 2. Reference to the sale deed has been made in the list of documents submitted by the plaintiff along with the injunction petition. Plaintiff has sought a declaration of right, title and interest by way of adverse possession and perpetual injunction over the suit land. Rival claim has been made by the defendant on the suit land by virtue of the sale deed dated 14.01.1980. Therefore, the sale deed is required to be proved in accordance with law for which presence of the District Sub Registrar with the register of the sale deed is necessary. The impugned order may, therefore, be set aside and the learned Trial Court may be directed to consider his application afresh on merits.

Learned counsel for the respondent has opposed the prayer. He has made strong objection to the statements made by the counter-claimant that copy of the petition could not be supplied to learned counsel for the plaintiff as he was not found. He submits that the counsel for the plaintiff is a regular practitioner in District Court and such an allegation is wholly unfounded.

I have considered the submissions of learned counsel for the petitioner and learned counsel for the respondent. It appears that the plaintiff and the counter-claimant both have referred to the sale deed dated

14.01.1980 in their respective pleadings. Whereas the plaintiff claims title by way of adverse possession over the suit land, the defendant claims it by virtue of the sale deed under which she claims to have purchased the suit land. It further appears that due to inadvertence the date of the application has wrongly been typed in the impugned order as 15.04.2021 instead of 15.04.2024. Learned counsel for the defendant-petitioner has undertaken to serve the copy of the petition upon learned counsel for the plaintiff before moving the said application in the Trial Court.

In such circumstances, this Court is satisfied that the learned Trial Court should consider the prayer for summoning of the District Sub Registrar of Agartala by invoking Order XVI Rule 6 of CPC read with Section 151 of CPC afresh, in accordance with law.

The instant petition is disposed of with a cost of Rs.1,000/- to be paid to the counsel for the plaintiff on the next date before the learned Trial Court.

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

(APARESH KUMAR SINGH) CJ

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