

**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.07/2025

1. Shri Milan Chandra Paul, son of Lt. Manindra Chandra Paul, resident of Kalibari Road, P.S. & P.O.-Dharmanagar, District-North Tripura.

2. Sri Nani Gopal Paul, son of Lt. Manindra Chandra Paul, resident of Kalibari Road, P.S. & P.O.-Dharmanagar, District-North Tripura.

..... Defendant-Petitioner (s).

V E R S U S

Sri Bikash Paul, son of Lt. Manindra Chandra Paul, resident of Kalibari Road, P.S. & P.O.-Dharmanagar, District-North Tripura.

.....Plaintiff-Respondent (s).

For Petitioner(s) : Mr. Gautam Kumar Nama, Advocate.

For Respondent(s) : Mr. T.D. Majumder, Sr. Advocate,
Mr. Biplab Debnath, Advocate,
Mr. Dalit Kalai, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Date of hearing and judgment: **25th April, 2025.**

Whether fit for reporting : **NO.**

JUDGMENT & ORDER(ORAL)

Heard Mr. Gautam Kumar Nama, learned counsel appearing for the defendant-petitioners and Mr. T.D. Majumder, learned senior counsel assisted by Mr. Dalit Kalai, learned counsel appearing for the plaintiff-respondent.

2. Mr. Gautam Kumar Nama, learned counsel for the petitioners, submits that it is the 3rd Amendment Application which has been allowed by the learned Civil Judge (Sr. Division), North Tripura, Dharmanagar in Civil Misc 85 of 2024 arising out of T.S. 27 of 2022 by the impugned order dated 09.09.2024 whereby the date of oral agreement i.e. 07.08.2021 earlier allowed to be corrected by way of 2nd Amendment vide order dated 05.04.2023 has

been sought to be amended as 07.08.2019. Learned counsel for the petitioners has drawn the attention of this Court to the 2nd Amendment Application [Annexure-2] sub-para (vi) and the order dated 05.04.2023 at Annexure-3 and also the 3rd Amendment Application which is at Annexure-5 especially sub-para (iv) of the schedule of the amendment application. It is submitted that the learned Trial Court has, despite objection, allowed the amendment application though the defendants/petitioners herein had already filed an additional written statement to the 2nd Amendment Application. It is only thereafter that the plaintiff has become wiser seeking amendment to change the date of the oral agreement from 07.08.2021 to 07.08.2019. This would cause serious prejudice to the case of the defendants. Such an amendment cannot be compensated in terms of cost. Therefore, petitioners have been compelled to move this Court.

3. Objection has been filed to the application by the respondent who is the plaintiff, *inter alia*, taking the following stand:

"4. Briefly stated, my position as the plaintiff is that I have filed a suit for specific performance of an oral contract for the execution of a sale deed by the respondents for the remaining area of land measuring 0.074 acres under the oral agreement dated September 237521, 2019. The revision petitioners are my full-blood brothers who relocated to West Bengal from Dharmanagar. My brothers and I inherited land at Dharmanagar from our father, our common predecessor, through property partition. I have been residing on the portion of land inherited by me from the common ancestor.

Under an oral agreement dated September 21, 2019, for the sale of land measuring 0.274 acres, which is part of the partitioned properties inherited jointly by my brothers from ancestral property, they agreed to sell 0.274 acres of land to me for consideration. Pursuant to this oral agreement, my brothers, i.e., the petitioners herein, executed two sale deeds in favor of me, i.e., the plaintiff-respondent, on different dates, each measuring 0.100 acres.

After accumulating further funds, when the plaintiff approached the defendant-petitioners to execute the remaining portion of land measuring 0.074 acres, they indulged in delaying tactics and ultimately refused to execute the deed on various false pretexts. Paragraphs 1 and 2 of the unamended plaint indicate that the oral agreement was for the entire 0.274 acres, as they had already sold 0.026 acres out of a total inherited land of 0.300 acres to a third party. They do not possess additional land.

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10. Regarding paragraph 3 of the petition, I submit that the amended plaint requires further amendments due to typographical errors concerning the

date of the oral agreement, which escaped the notice of those preparing the amendment application. It is acknowledged that I filed another amendment application, Civil Misc. No. 85 of 2024, to correct the year of execution of the oral agreement. I submit that a single oral agreement for the sale of 0.274 acres of land belonging to the defendant-petitioners should not be invalidated due to a typographical error regarding the year 2725 of the agreement. Due to financial constraints, separate deeds were executed, and the third one is yet to be executed, for which advance payment has already been made by the plaintiff in writing. It is noted that no legal objection was raised, and the matter was heard before the Learned Civil Judge."

4. Learned counsel for the petitioners reiterates that after an additional written statement was filed to the second amendment application, the plaintiff has become wiser and seeks to change the date of the oral agreement from 07.08.2021 to 07.08.2019. He has relied upon a recent decision of the Apex Court in the case of ***Life Insurance Corporation of India vrs. Sanjeev Builders Private Limited & another*** reported in ***(2022) 16 SCC 1*** (paragraph-71, more specifically para-71.4.4 and 71.10).

5. Learned counsel for the respondent has relied upon a judgment rendered by this Court in the case of ***Smt. Putul Rani Debbarma vrs. Sri Biplab Debnath & others (CRP No.98 of 2024)*** dated 05.02.2025. Learned counsel for the respondent has also relied upon a judgment of the Apex Court in the case of ***Puran Ram vrs. Bhaguram & another*** reported in ***(2008) 4 SCC 102***.

6. Upon hearing learned counsel for the parties and after taking note of the principles laid down in respect of the provisions of Order VI Rule 17 of the CPC and the decisions relied upon by learned counsel for the parties, this Court is of the considered view that the amendment to change the date of oral agreement from 07.08.2021 to 07.08.2019 has been allowed by the learned trial Court as it would be just and necessary for determining the real question of

controversy between the parties. In any case, the defendants is entitled to file additional written statement to contest the amendment to the date of oral agreement. The suit itself is for specific relief instituted in the year 2022. The relief claimed before as well as after the amendment remain the same, i.e. a decree for specific performance of the contract.

7. In the case of ***Life Insurance Corporation of India*** (supra) relied upon by the petitioners, the Apex Court has at paragraph-71 while summarizing the principles governing amendments held at para-71.2 that all amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side.

The Apex Court has at para-71.10 held that where, however, the amendment sought is only with respect to the relief in the plaint, and is predicated on facts which are already pleaded in the plaint, ordinarily the amendment is required to be allowed. If the amendment changes the nature of the suit or the cause of action, so as to set up an entirely new case, the amendment must be disallowed.

8. In the plaint, the plaintiff has pleaded that the plaintiff and defendants entered into an oral agreement for sale of total land measuring 0.274 acres out of their entire ancestral property. The learned trial Court had earlier allowed an amendment application vide order dated 05.04.2023 passed in Civil Misc. No.29 of 2023 wherein the date of the oral agreement was typed as 07.08.2021. In the recast plaint also the same error remained. Therefore, the plaintiff preferred Civil Misc. No.85 of 2024 for correction of the date of oral

agreement as 07.08.2019 instead of 07.08.2021. The plaintiff relied upon certified copy of sale deed executed by the defendants dated 06.08.2021 whereas the defendants have relied upon copy of agreements to sale deed dated 06.02.2019 and 11.02.2019. The learned trial Court, therefore, observed that it is clear that part of cause of action may have arisen in the year 2019 as per the document of the defendant OPs. Taking into account the aforesaid facts, the Court came to the opinion that the subsequent amendment for correction in the date of oral agreement is just and necessary for the purpose of determining the real question in controversy between the parties relating to the actual date of oral agreement/written agreement to sale, if any, between the parties.

9. The learned counsel for the petitioners has relying upon the decision in the case of ***Life Insurance Corporation of India*** (supra) at para-71.4.4 submitted that such amendment should not be allowed as a result of which the other side loses a valid defence. However, the Apex Court in the conclusions summarized at para-71 of the report laid down that when the amendment would enable the Court to pin-pointedly consider the dispute and would aid in rendering a more satisfactory decision, the prayer for amendment should be allowed. The Court should avoid a hypertechnical approach and is ordinarily required to be liberal especially where the opposite party can be compensated by costs. Moreover, it has further been observed that when the amendment is sought before commencement of trial, the Court is required to be liberal in its approach. The Court is required to bear in mind the fact that the opposite party would have a chance to meet the case set up in amendment. As such, where the amendment does not result in irreparable prejudice to the opposite party, or divest the opposite party of an advantage which it had

secured as a result of an admission by the party seeking amendment, the amendment is required to be allowed. Equally, where the amendment is necessary for the Court to effectively adjudicate on the main issues in controversy between the parties, the amendment should be allowed.

10. Taking the entire facts and circumstances germane to the issue at hand in the light of the principles summarized by the Apex Court in the case of ***Life Insurance Corporation of India*** (supra) also, this Court feels that if the learned trial Court is of the opinion that the amendment if allowed would be helpful in deciding the real question in controversy between the parties, the judicial discretion exercised by the learned trial Court cannot be said to be erroneous which this Court should interfere in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India.

11. Accordingly, the instant revision petition is dismissed.
Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ

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