

**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.18 of 2025

Shri Bikash Dey, S/o Sri Nirmal Chandra Dey, resident of Chandrapur, Near Dam, P.S. – East Agartala, District – West Tripura, Pin-799008.

.....Petitioner(s);

Versus

Sri Amit Saha, S/o Sri Gurupada Saha, resident of Katashewla, Jogendranagar, P.S. East Agartala, District – West Tripura, Pin-799004.

..... Respondent(s);

For Petitioner(s) : Ms. Asmita Banik, Advocate.

For Respondent(s) : Mr. Bibhal Nandi Majumder, Sr. Advocate,
Mr. Dhruva Jyoti Saha, Advocate,
Mr. Samrat Sarkar, Advocate.

HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO

O-R-D-E-R

08/08/2025

Heard the counsel for the parties.

2. The respondent herein filed a summary suit under Order XXXVII of the CPC against the petitioner for recovery of some of money amounting to Rs.10,00,000/-. According to the report of the trial Court, the summons got properly served on the defendant/petitioner in Form No. IV of Appendix- F on 04.06.2024 itself.

3. Thereafter, on 11.06.2024, counsel for the defendant/petitioner appeared before the trial Court and filed a petition on behalf of the defendant/petitioner praying for providing few days time to file Vakalatnama to represent the defendant/petitioner. The matter was then adjourned to 14.06.2024 for appearance of the defendant/petitioner and filing of Vakalatnama by him.

4. Again, on 14.06.2024, the counsel for the defendant/petitioner sought more time to file Vakalatnama stating that the defendant/petitioner is under treatment and so he could not appear before the Court.

5. The Court below then adjourned the matter to 02.07.2024 as a last opportunity to the defendant/petitioner to appear and take proper steps in the suit while noting that requisites had been filed for issuing summons for judgment under Form No.4-A of Appendix-B as mentioned in Order XXXVII Rule 3(4) of CPC.

6. When the matter was again listed on 02.07.2024, memo of appearance along with Vakalatnama was filed on behalf of the defendant/petitioner and the counsel for the defendant/petitioner in the trial Court merely stated that the defendant/petitioner will contest this suit but no separate petition supported by affidavit or verification had been filed. Also no address of the defendant/petitioner was filed for service of notices on him as required under Order XXXVII Rule 3(1) of CPC.

7. Counsel appearing for the plaintiff/respondent prayed for issuing the summons for judgment in Form No.4-A of Appendix-B of CPC upon the defendant/petitioner at his address mentioned by the plaintiff/respondent through registered post. The Court accepted it and adjourned the matter to 11.07.2024.

8. On 11.07.2024, the original postal receipt and the tracking-cum-delivery report was filed by counsel appearing for the plaintiff/respondent in the Court below.

9. The counsel for the defendant/petitioner again filed a petition seeking adjournment without filing any Vakalatnama.

10. Court below rejected it and fixed the matter on 05.08.2024 for hearing on summon for judgment.

11. Assailing the said order dt. 11.07.2024 this Revision petition is filed.

12. The conduct of the defendant/petitioner in this case appears to be totally evasive. The petitioner appears to think that the summary suit under Order XXXVII of CPC is like any other civil suit ignoring the procedure prescribed in CPC for deciding such summary suits.

13. As per Clause-(1) of Sub-Rule-3 of Order XXXVII of CPC, within 10 days of service of summons under Rule-2, the defendant/petitioner has to file in the Court an address for service of notice on him. He did not do so.

14. Repeated adjournments have been sought on 11.06.2024, 14.06.2024, 02.07.2024 and again on 11.07.2024 as if the suit is an ordinary civil suit for recovery of money and not a summary suit.

15. Even Vakalatnama was not filed by 11.07.2024, though the counsel was engaged by the defendant/petitioner on 11.06.2024 itself.

16. More importantly, this Revision petition was filed on 01.04.2025, stalling the proceedings in the summary suit because the

defendant/petitioner on 26.09.2024 made a statement that the order passed by the Court below on 11.07.2024 would be challenged in the High Court.

17. The matter was dragged on even thereafter till date on the pretext that the Revision petition is pending in this Court, though there was no stay granted by this Court in this Revision petition. As per the report of the Court below dt. 04.07.2025, the defendant/petitioner has not even filed a petition seeking leave of the Court to defend the suit as required under Sub-rule 5 of Rule-3 of Order XXXVII of CPC.

18. More importantly, there is no material placed on record about the illness of the defendant/petitioner and it cannot be presumed that such an illness will continue for almost a year.

19. In my opinion, this Revision petition is an abuse of process of Court and is not bona fide and there are no merits in the Revision petition.

20. Accordingly, the Revision petition is dismissed with cost of Rs.5,000/- to be paid to the plaintiff/respondent. Pending application(s), if any, shall stand disposed of.

(M.S. RAMACHANDRA RAO, CJ)