

**HIGH COURT OF TRIPURA
AGARTALA**

***CRP No.29 of 2025
Caveat No.460 of 2025***

Sri Chitta Chakraborty, S/o Late Jitendra Chandra Chakraborty, resident of Indranagar, Near Yuba Sanstha Club, P.O. Indranagar, P.S. New Capital Complex, Agartala, District – West Tripura.

..... Petitioner(s).

V E R S U S

- 1) Smt. Namita Chakraborty, W/o Lt. Kamal Ranjan Chakraborty, resident of Indranagar, near Yuba Sanstha Club, PO - Indranagar, PS - New Capital Complex, Agartala, Dist - West Tripura.
- 2) Smt. Sampa Chakraborty, W/o Sri Manojit Halder, D/o Lt. Kamal Ranjan Chakraborty, resident of Indranagar, near Yuba Sanstha Club, PO - Indranagar, PS - New Capital Complex, Agartala, Dist - West Tripura.
- 3) Smt. Champa Chakraborty, W/o Sri Suman Chakraborty, D/o Lt. Kamal Ranjan Chakraborty, resident of Indranagar, near Yuba Sanstha Club, PO - Indranagar, PS - New Capital Complex, Agartala, Dist - West Tripura.
- 4) Smt. Gopa Chakraborty, W/o Lt. Niranjana Chakraborty, resident of Indranagar, near Yuba Sanstha Club, PO - Indranagar, PS - New Capital Complex, Agartala, Dist - West Tripura.

..... Respondent(s).

For Petitioner(s)	: Mr. Deba Ranjan Chowdhury, Advocate, Mr. Sujoy Sarkar, Advocate.
For Respondent(s)	: Mr. Saktimoy Chakraborty, Sr. Advocate, Ms. Pinki Chakraborty, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

16/05/2025

Caveat No.460 of 2025

Mr. Saktimoy Chakraborty, learned senior counsel assisted by Ms. Pinki Chakraborty, learned counsel appears on caveat for the decree holder.

The caveat is discharged.

CRP No.29 of 2025

Heard Mr. Deba Ranjan Chowdhury, learned counsel appearing for the petitioner and Mr. Saktimoy Chakraborty, learned senior counsel assisted by Ms. Pinki Chakraborty, learned counsel appearing for the respondents.

The judgment debtor filed an objection under Section 47 of the CPC bearing Civil Misc.(J) No.12/2024 in EX(T) No.08/2020 in respect of execution of the decree dated 25.07.2019 passed in TS No.106 of 2017. The same has been rejected by the impugned order dated 11.04.2025 passed by the executing Court of learned Civil Judge (Sr. Div), Court No.2, West Tripura, Agartala.

Mr. Deba Ranjan Chowdhury, learned counsel for the petitioner submits that petitioner-judgment debtor does not have any objection to the execution of the decree. However, he is only concerned that in the process of execution of the decree, the joint pathway which is within the schedule- A & B of the suit land be not affected causing restraint on using the pathway by the judgment debtor.

Mr. Saktimoy Chakraborty, learned senior counsel for the respondents-decree holder has referred to the stand of the decree holder reflected in the impugned order and again submitted that the decree holder has time and again assured that he is not going to disturb any of his brothers which includes the judgment debtor in due enjoyment of the said

path. Therefore, there is no reason for the judgment debtor to feel insecure. Otherwise, the execution petition is strictly in accordance with law and seeks to execute that part of the judgment and decree whereby the recovery of possession of the suit land has been ordered.

Learned counsel for the petitioner in reply submits that if this assurance is reiterated the judgment debtor would be satisfied.

On consideration of rival submissions of the parties and after going through the relevant records placed by them and after perusal of the impugned order as well this Court is of the opinion that the apprehension of the petitioner of being disturbed in using the joint pathway is misplaced. The decree holder has, even at the stage of second appeal before this Court, made such an assurance, which has been reiterated during the proceedings of the execution case on Section 47 objection filed by the judgment debtor. The relevant part of the impugned order recording the said assurance is extracted hereunder:

“Regarding the pathway, the learned senior counsel Mr. S. M. Chakraborty for the DH-Petitioner submitted that in the 2nd Appeal before the Hon’ble High Court learned counsel stated that his client is not going to disturb any of his brothers in due enjoyment of the said path. Therefore, he has assured again that his client is not going to disturb his brothers in due enjoyment of the said path and prayed for rejecting the present application and to allow the prayer of made by the DH-petitioner in the execution case.”

Since the petitioner has moved this Court only on the apprehension of being disturbed or likely to be disturbed in use of the joint pathway, the above quoted observation do adequately displaces his

apprehension. As such, there is no reason to interfere in the impugned order.

Accordingly, the instant petition is dismissed.

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

(APARESH KUMAR SINGH), CJ

