

**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.21 of 2026

1. Smt. Kalpana Das, W/o Lt. Pichan Das, resident of 26 Card Davipur, PS - Madhupur, Sub - Division - Bishalghar, Dist - Sepahijala, Sonamura, Tripura
2. Sri. Abhijit Das, Son of Lt. Pichan Das, resident of 26 Card Davipur, PS - Madhupur, Sub - Division - Bishalghar, Dist - Sepahijala, Sonamura, Tripura
3. Sri. Biswajit Das, Son of Lt. Pichan Das, resident of 26 Card Davipur, PS - Madhupur, Sub - Division - Bishalghar, Dist - Sepahijala, Sonamura, Tripura
4. Smt. Soma Das, D/o Lt. Pichan Das, resident of 26 Card Davipur, PS - Madhupur, Sub - Division - Bishalghar, Dist - Sepahijala, Sonamura, Tripura
5. Smt. Juma Das, D/o Lt. Pichan Das, resident of Pratapgarh Kabiraj Tilla, PS and PO - A.D Nagar, Dist - West Tripura

.....Petitioner(s);

Versus

1. Smt. Jhulan Das, W/o Lt. Narayan Das, resident of 26 Card Davipur, PS - Madhupur, Dist - Sepahijala, Tripura, Sub – Division: Bishalgarh
2. Sri. Bikash Das, S/o Lt. Narayan Das, resident of 26 Card Davipur, PS - Madhupur, Dist - Sepahijala, Tripura, Sub – Division: Bishalgarh

.....Respondent(s)

For Petitioner(s) : Mr. Debesh Chandra Roy, Advocate,
Mr. Shibu Chandra Deb, Advocate.

For Respondent(s) : None.

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

Order

07/03/2026

This Revision is filed challenging order dt.09.12.2025 in Civil Misc. (Stay) 04 of 2025 arising out of TA 03 of 2025.

2. Petitioners herein are plaintiffs in the suit.
3. The said suit was filed for declaration of title and recovery of possession.
4. The said suit was decreed on 20.12.2024.
5. Challenging the same, the defendants filed TA 03 of 2025 before the District Judge, Court No.1, Sonamura, Sepahijala District along with an

application being Civil Misc. (Cond) 04 of 2025 to condone the delay of 58 days in filing the appeal.

6. Though the plaintiffs/petitioners opposed the condonation of delay by filing the written objection, the same was condoned on 28.11.2025.

7. Thereafter the appeal was admitted, and notice was directed to the petitioners/plaintiffs.

8. The defendants had also filed Civil Misc. (Stay) 04 of 2025 in TA 03 of 2025.

9. When the matter was taken up on 09.12.2025, only the respondents/defendants' counsel was present, and the counsel for the respondents informed the Court that the counsel for the petitioners, who had appeared in the delay condonation petition, had refused to accept notice on behalf of the plaintiffs/petitioners herein.

10. He sought for grant of stay until final hearing on the stay petition.

11. He also contended that the plaintiffs had already filed a petition for execution of the decree before the Trial Court which was registered as Execution (T) No.03 of 2025, and unless stay of execution of the decree of the Trial Court is granted, there would be serious prejudice to the defendants/respondents, and the very appeal would be frustrated.

12. Therefore the Court below, exercising its powers under Order XLI Rule 5 CPC, granted stay of execution proceedings.

13. In the said order, it is recorded that under Rule 9-A (4) of Order V CPC, if summons, when tendered, is refused then on application of the party, the same be served by the Court in the same manner as a summons to a defendant.

14. It therefore directed that the defendants/appellants in the First Appeal should take steps to serve the petitioners/plaintiffs through the Court as well as by RPAD.

15. Assailing the same, this Revision is filed.

16. Counsel for the petitioners contends that the respondents/defendants failed to serve the notice of the appeal as well as the stay petition on the petitioners/plaintiffs, and therefore the Court below erred in granting stay of execution.

17. He does not dispute the statement recorded in the Order of the Court below made by the counsel for the defendants, that the counsel who appeared for the plaintiffs in the delay condonation application in the First Appeal, had refused to accept notice on behalf of the plaintiffs.

18. The petitioners/plaintiffs, when they refused to receive notice of the stay petition filed by the respondents in the First Appeal, cannot take advantage of their own wrong, and stall the proceedings in the stay application filed by the respondents in the First Appeal.

19. I therefore do not find any merit in the Revision. It is accordingly dismissed. No costs.

(M.S. RAMACHANDRA RAO, CJ)

Pijush/

PIJUSH KANTI NAG

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