



**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.23/2026

1. Sri Pranajit Sinha Roy, S/O. Late Jogendra Chandra Roy alias Jogendra Chandra (Saha) Roy, residing at Udaipur Town, Giridhari Pally, P.S.-Radha Kishore Pur, Parganas Udaipur, District Gomati, Tripura-799120.

2. Sri Abhijit Roy, son of Late Ranjit Sinha Roy, residing at Udaipur Town, Giridhari Pally, P.S.-Radha Kishore Pur, Parganas Udaipur, District Gomati, Tripura-799120.

3. Sri Arijit Roy, son of Late Ranjit Sinha Roy, residing at Udaipur Town, Giridhari Pally, P.S.-Radha Kishore Pur, Parganas Udaipur, District Gomati, Tripura-799120.

..... Petitioner(s).

V E R S U S

1. Sri Prasenjit Sinha Roy, S/O. Late Jogendra Chandra Roy alias Jogendra Chandra (Saha) Roy, residing at Udaipur Town, Giridhari Pally, P.S.-Radha Kishore Pur, Parganas Udaipur, District Gomati, Tripura-799120, presently residing at A-12 V.I.P Park, Prafulla Kanon, Kolkata-700101.

2. Smti. Rina Saha, W/O. Late Arun Kumar Saha, Resident of Udaipur Town, locally known as Giridhari Pally, P.O. and P.S.-Radhakishorepur, Pin-799120, District Gomati, Tripura.

.....Respondent(s).

For Petitioner(s)

: Mr. Pradyot Kr. Dhar, Sr. Advocate,
Mr. Rahul Debnath, Advocate,
Ms. Priya Saha, Advocate,
Ms. Ankana Chakraborty, Advocate.

For Respondent(s)

: Mr. Tapash Datta Majumder, Sr. Advocate,
Mr. Rana Gopal Chakraborty, Advocate,
Mr. Dalit Kalai, Advocate.

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

Order

08/05/2026

Heard Mr. Pradyot Kr. Dhar, learned senior counsel assisted by Mr. Rahul Debnath, counsel appearing for the petitioners and Mr. Tapash Datta Majumder, learned senior counsel assisted by Mr. Rana Gopal Chakraborty, counsel appearing for the respondents.



2. This Revision is filed challenging the order dt.24.11.2025 of the learned Civil Judge (Senior Division), Court No.1, Gomati District, Udaipur in Civil Misc. No.70 of 2025 arising out of T.S. No.31 of 2018.
3. The petitioners are defendants in the said suit.
4. The respondents have filed the said suit for the following reliefs:
 - "(i) a decree directing the removal of the defendant No.1 as principal shebait of the deity Sri Sri Gour Giridhari Jew and appointing the plaintiff as Principal Shebait being next eldest shebait to manage the debtor estate and discharge regular worship of the deity and to perform conventional religious festivals;
 - (ii) a decree directing the defendant No.1 to submit audited account of income and expenditure of the deity Sri Sri Gour Giridhari Jew for every financial year on and from 25.11.2008 up to date;
 - (iii) a decree declaring that the lease deed dated 24.04.2013 of the property described in the schedule hereunder executed by the defendant No.1 in favour of defendant No.4 is void and non-est in the eye of Law and also to direct the Sub-Registrar Gomati Tripura to make entry thereof;
 - (iv) Permanent injunction restraining the defendant nos.1, 2, and 3 from carrying on their personal business at the property of Sri Sri Gour Giridhari Jew as described in paragraph no.7 (4) above, to the detriment of the interest of the debtor estate.
 - (v) Costs of the proceedings and other incidental charges;
 - (vi) such other relief and/or reliefs as the Learned Court may deem fit and proper."
5. The petitioners, who are defendants No.1, 2 & 3 in the said suit, filed an application Civil Misc. 70 of 2025 under Order VII Rule 11 of CPC to dismiss the suit on the following grounds:



"(a) The petitioners assert that the plaintiff of this suit i.e. TS 31 of 2018 namely Prasenjit Sinha Roy had earlier filed a suit bearing No. TS 21 of 2015 before this Court on the same subject matter having identical cause of action and parties and that the said suit was withdrawn by the present plaintiff vide order dated 27.01.2016, but no liberty was granted by the Court in the said order to the plaintiff to file fresh suit on the same subject matter.

The petitioners therefore assert that the present suit bearing No. TS 31 of 2018 is barred statutorily under the provision of Order XXIII Rule 1(4) of CPC.

(b) The petitioners further assert that the present suit inter alia seeks the relief of declaration to the effect that the Lease Deed dated 24.04.2013 is void and non est in the eye of law. The petitioners further assert that the instant suit is barred by limitation as the limitation period for seeking such a declaration is three years but the present suit has been filed in the year 2018."

6. The respondents opposed the said application contending that the suit is at the stage of evidence and the application is filed by the defendants only to delay the disposal of the suit. They also contended that through an order dt.27.01.2016 in T.S. No.21 of 2015, liberty had been granted to the plaintiffs to file a fresh suit on the same subject matter and the present application filed by the respondents is nothing but a mere misinterpretation of the said order.

7. They further contend that the suit is not barred by law of limitation as the plaintiffs had learnt about the execution of the impugned lease Deed bearing No.1-671 dt.24.04.2013 in the year 2015 prior to filing of the previous suit T.S. No.21 of 2015.

8. The Court below rejected the said application.

9. It held that though the operative portion of the order dt.27.01.2016 in T.S. No.21 of 2015 stated that the petition to withdraw the said suit from the



file of the Civil Judge, Senior Division, Court No.1, Gomati District, Udaipur Tripura was granted by 'disposing of' the application for withdrawal on contest, the said Court had also mentioned in the previous paragraph as under:

"The submission made by the Learned Counsel for the defendants that liberty should not be granted to the plaintiff to file a fresh suit in future on the same subject matter and cause of action is not tenable as because while a Court is granting liberty to file fresh suit it means filing of the suit in the proper Forum and if at the time of filing of this suit afresh this Court acquires jurisdiction to entertain such kind of suit there cannot be any bar in filing the same if this Court is granting liberty."

Thus the plea of defendants in that suit that liberty to file a fresh should be denied to plaintiffs was negative expressly.

10. It further observed that every order of a Court of law has to be read in the whole to gather its true intent and understand its full scope; and when the whole of the order dt.27.01.2016 in T.S. No.21 of 2015 is considered, the Civil Judge, Senior Division, Court No.1, Gomati District, Udaipur had no hesitation in holding that the instant suit bearing No. T.S. 31 of 2018 did not fall foul of Order XXIII Rule 1(4) of CPC.

11. It also rejected the plea of bar of limitation raised by the defendants stating that the said question is a mixed question of law and fact and it would be improper to decide this question summarily without the benefit of a trial.

12. Challenging the same, this Revision is filed.

13. Heard learned senior counsel for the petitioners, who sought to reiterate that in the order passed on 27.01.2016 in T.S. No.21 of 2015, the Civil



Judge, Senior Division, Court No.1, Gomati District, Udaipur had not granted leave to file a fresh suit and so, the subsequent suit, i.e. T.S. No.31 of 2018 could not have been filed.

14. I am of the opinion that a reading of the entire order dt.27.01.2016 in T.S. No.21 of 2015 as observed by the Court below implies that such a leave was granted and the words "*the case is disposed of on withdrawal*" should be read along with the previous paragraph extracted *supra*. If it is so read, it cannot be said that the suit T.S. No.31 of 2018 cannot be filed.

15. I am also in agreement with the reasoning of the Court below that the question of limitation is a mixed question of law and fact, and cannot be adjudicated in an application under Order VII Rule 11 of CPC normally.

16. Though counsel for the petitioners sought to place reliance on another order dt.30.01.2018 in T.S. No.01 of 2016, the question is whether the dismissal of that suit on the ground that leave under Section 18 of the Religious Endowments Act was not granted to plaintiffs, and the instant suit is barred under principles of *res judicata* cannot be decided in an application under Order VII Rule 11 CPC.

17. The said issue can only be decided by framing such an issue in the suit T.S. No.31 of 2018 and deciding it.

18. I, therefore, do not find any merit in the Revision. It is accordingly dismissed.

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

(M.S. RAMACHANDRA RAO, CJ)

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