

# THE HIGH COURT OF TRIPURA

## A G A R T A L A

### CRP No. 36 of 2015

#### **Petitioner :**

**Sri Bijoy Saha,**

S/o. Late Sunil Chandra Saha, Resident of  
Ramnagar Road No. 8, P.S-West Agartala,  
P.O-Agartala, District West Tripura, PIN-  
799001.

#### **By Advocate :**

Mr. U. K. Majumder, Adv.

#### **Respondents :**

**1. Sri Motilal Sarkar.**

Son of Late Akhil Chandra Sarkar, Resident of  
Malaynagar (near UBI Bank), P.O. Renters  
Colony, P.S. Srinagar, District West Tripura,  
PIN-799004.

**2. Sri Badal Chandra Sarkar,**

Son of Late Akhil Chandra Sarkar, Resident of  
Malaynagar (near UBI Bank), P.O. Renters  
Colony, P.S. Srinagar, District-West Tripura,  
PIN-799004.

#### **By Advocate :**

None.

#### **B E F O R E**

#### **THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA**

Date of hearing &  
Judgment & Order : **28<sup>th</sup> May, 2015.**

Whether fit for reporting :

| Yes | No |
|-----|----|
|     | √  |

### **JUDGMENT & ORDER (ORAL)**

Notices were issued to the respondents who have not put in  
appearance and, therefore, the petition is decided in their absence.

**[2]** The petitioner is aggrieved by the order dated 12<sup>th</sup> March, 2015  
whereby the learned Court has refused to set aside the order dated 3<sup>rd</sup>  
February, 2015 proceeding ex-parte against the petitioner-defendant No.2.

**[3]** It is not disputed that the case was listed on 17<sup>th</sup> January, 2015. According to the Court file the case was adjourned to 03.02.2015 but according to the learned counsel for the petitioner, in the diary of the counsel the next date was wrongly noted as 19<sup>th</sup> February, 2015. On 19<sup>th</sup> February, 2015 when inquiry was made in the Court, it was found that the case has been adjourned to 12<sup>th</sup> March, 2015 and therefore, application was submitted on the next date for vacating the ex-parte stay order. The diary has been produced before me and it fully supports the case of the petitioner and the diary clearly shows that after 17<sup>th</sup> January, 2015 the case was entered into the diary only on 19<sup>th</sup> February, 2015 and there is no entry of the said case on 3<sup>rd</sup> February, 2015. Therefore, there is a mistake or error on the part of the counsel or his clerk in recording the date and the party cannot be penalized for such error.

**[4]** From the order sheets of the learned Civil Judge, Sr. Division, I find that in all the order sheets though the orders are type written while fixing the date, a blank space has been kept and this date has been filled later on. This clearly implies that the dates are not been fixed at the time when the case is taken up and are being fixed at a later stage.

**[5]** I have been told by the members of the Bar that the practice which is being followed in the State of Tripura by most judicial officers is that the date in the order sheet is kept blank and later the Bench Clerk fixes the dates as per the convenience of the Court later in the evening. It is made clear that it is the duty of the Presiding Officer of the Court to fix the date and he cannot abdicate his duty and ask the Bench Clerk or any other officer to perform this duty.

**[6]** This practice is an obnoxious practice which must be stopped forthwith. If this practice is allowed to continue it means that a client who is appearing in person and is free to leave the Court at 10.30 in the morning will have to wait till the Court Clerk fixes the date late in the evening before he can go to his house. It is the duty of the Presiding Officer of the Court to fix a date as and when the case is taken up for hearing and the order is passed. Presiding Officers must maintain a diary/chart showing the number of cases fixed on each date so that they can fix the next date in each case not only according to their own convenience but after taking into consideration the requests, if any, made by the learned counsel or the parties.

**[7]** In future, if it comes to the notice of this Court that Officers are not fixing dates at the time when the orders are being passed in the cases then stern action shall be taken against any defaulting officers.

**[8]** In this view of the above discussion, the order dated 12.03.2015 as well as order dated 03.02.2015 are set aside. The petitioner is permitted to contest the case on merits and the written statement which is already on record will be taken into consideration. Petition is disposed of in the aforesaid terms. No costs.

A copy of this judgment shall be circulated to all the Judicial Officers in the State to ensure that dates are fixed at the time when cases are heard and orders are passed thereon and not at any later stage of the day.

**CHIEF JUSTICE**