

THE HIGH COURT OF TRIPURA
AGARTALA

CRP 35 of 2015

1. Tripura State Electricity Corporation Ltd. (to be represented by its Chairman cum-Managing Director), Bidyut Bhavan, North Banamalipur, P.O. Agartala, P.S. – East Agartala, District – West Tripura.
2. The Director (Finance) & Company Secretary, Tripura State Electricity Corporation Ltd. Now assigned to General Manager (Finance) & Nodal Officer, Tripura State Electricity Corporation Limited, Agartala, Bidyut Bhavan, North Banamalipur, P.O. Agartala, P.S. East Agartala, District – West Tripura.
3. The State of Tripura, Agartala
(To be represented by the Secretary to the Government of Tripura, Department of Power).

..... *Petitioners*

- Vs. -

Shri Kajal Dey,
Son of Late Bidhubhusan Dey,
59/1, Old Melarmath, Near Government Quarters,
Agartala, P.S. West Agartala, District West Tripura.

..... *Respondent*

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the Petitioners : Mr. N. Majumder, Advocate.

For the respondents : None.

Date of hearing & delivery of Judgment & order : 10.04.2015.

Whether fit for Reporting : No.

JUDGMENT & ORDER (ORAL)

This revision petition is directed against the order dated 28.07.2014 passed by the learned Civil Judge, Senior Division, Court No.2, West Tripura, Agartala closing the evidence of the plaintiffs for non-production of the witnesses.

2. Though this order was passed on 28.07.2014, the certified copy was applied for only on 21.11.2014 i.e. after almost 4 months. The copy was ready on 04.12.2014, but received by the counsel for the petitioner on 10.12.2014 and the present petition has been filed after 4 months on 2nd April, 2015. There is virtually no explanation why this petition under Article 227 has been filed after 8 months. It is true that there is no limitation prescribed for approaching the Court under Article 227, but the principle of delay and laches will apply in these cases.

3. The conduct of the petitioner is such which disentitles the petitioner from any relief. The petitioner which is the Tripura State Electricity Corporation filed a suit being Money Suit No.24 of 2007 before the Trial Court for recovery of certain amounts. This suit was dismissed in default on 26.07.2012 for non-appearance. Thereafter, the suit was restored on 18.10.2012. The case was then fixed on 17.11.2012 for filing of affidavit-in-chief of Pws/cross of Pws. Examination-in-chief was filed. The case was adjourned to

29.11.2012 at the request of the defendant. The case was adjourned to 24.01.2013 when plaintiffs filed a time petition and the case was then adjourned to 26.02.2013.

4. Then the case was adjourned for filing of examination-in-chief of the plaintiffs witnesses to 05.03.2013 when plaintiffs sought one month time to file examination-in-chief of remaining PWs. The case was then adjourned to 30.03.2013. Again the plaintiffs sought time. Then the case was adjourned to 03.04.2013. In the mean time, some other miscellaneous application was filed and the same was decided and finally another date was given to the plaintiffs to produce his witnesses on 27.04.2013. Therefore, the petitioner has taken four dates to produces examination-in-chief and thereafter another four dates were given to cross-examine the witnesses. On 27.04.2013, the plaintiffs filed examination-in-chief of one witness and defendant sought time to file a written objection. On the next date i.e. 24.05.2013 the defendant filed an application for issuance of order for attendance of all the P.Ws on the next date for cross-examination and also filed one written objection against the petition dated 27.04.2013 filed by the plaintiffs. The case was again adjourned with a direction to the plaintiffs to produce all the four witnesses. The case was then fixed on 13.06.2013, when the plaintiffs produced their witnesses for cross-examination.

5. Then the case was adjourned for cross-examination of the plaintiffs witnesses to 12.07.2013 when the witnesses were not present. The case was then adjourned to 20th August, 2013. Again the witnesses were not present. The case was finally adjourned to 19.09.2013. In the mean time, some other miscellaneous application was filed and the same was decided and finally another date was given to the plaintiffs to produce his witnesses on 19.05.2014. Therefore, the petitioner has taken four dates to produces examination-in-chief and thereafter another four dates to produce the witnesses for cross-examination. On 19.05.2014, the plaintiffs again sought an adjournment and this was granted as a last chance. On the next date i.e. 30.05.2014 the plaintiffs sought an adjournment and adjournment was granted subject to payment of costs of Rs.200/-. The case was then fixed on 28.06.2014, when again the plaintiffs sought adjournment which was granted subject to payment of costs of Rs.1,000/-. The next date i.e. 15.07.2014 was declared to be a public holiday in view of the Panchayat elections and therefore, the case was fixed on 28.07.2014. Again the plaintiffs neither paid the costs nor produced the witnesses. The learned Trial Court was fully justified in closing the evidence. Therefore, I find no reason to interfere with the impugned order and I also find that the present petition itself is highly belated.

6. The Court in exercise of its power under Article 227 would like to help litigants even where they are at fault, but if the

litigants are totally negligent and refuse to do anything in the matter then the Court cannot help them. In the present case, the plaintiff is the Tripura State Electricity Corporation which has a lot of money and officials at his command. It is not a poor illiterate litigant. I see no reason why any misplaced sympathy should be exercised in favour of the petitioner. Therefore, the petition is dismissed.

CHIEF JUSTICE

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