

Party Name : BIVA RANI DATTA (BHOWMIK) Vs JAHAR DATTA & ORS

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THE HONBLE MR. JUSTICE S.C.DAS

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Heard learned counsel Mr. D.C. Roy for the petitioner and Mr. R.G. Chakraborty for the respondents.

The petitioner as plaintiff instituted Title Suit No.196/2013 in the Court of Civil Judge, Sr. Division, Court No.2, Agartala against the defendant-respondents. After appearance in the suit, the defendant-respondents filed a counter claim along with a petition for treating them as pauper. The petition filed by the defendant-respondents to declare them as pauper was registered as Civil Misc (Pauper) 8/2014. Order dated 04-03-2015, 09-04-2015 and 22-05-2015 have been annexed as Annexure C and Annexure D to this petition. By order dated 22-05-2015, the learned Civil Judge, Sr. Division allowed the prayer of the defendant-respondents herein and declared them as pauper and there by allowed them to file the counter claim without paying court fee. This order has been challenged by the petitioner who is the plaintiff of the original suit i.e. T.S.196/2013.

Learned counsel Mr. Roy appearing for the petitioner submitted that though in the petition seeking declaration as pauper the D.M. & Collector has been made a party as a pro-forma respondent but notice has not been served on the D.M. & Collector and even no report was collected about the property of the respondents. No enquiry was made and the learned Civil Judge, Sr. Division in the process had unilaterally passed the order without making any enquiry about the assets and property of the respondents. Learned counsel Mr. Roy has further submitted that the respondents were supposed to file the petition personally whereas they were represented by lawyer and so the petition ought to have been rejected.

I have meticulously gone through the order. Learned Court considered the petition and the written objection and passed the order without obtaining any report from the chief ministerial officer of the Court or from the office of D.M. & Collector. Notice was sent to D.M. & Collector but D.M. & Collector neither responded nor did the Govt. Pleader appear. There is nothing in the record to show that the Govt. pleader was given notice or he was heard. This is the only lapse as I find in the order passed by learned Civil Judge, Sr. Division. He was supposed to give a notice to the Govt. Pleader while hearing the petition for declaring the person as pauper but that itself do not make the order as illegal. The petitioner has nothing to show as to how the petition has been affected by the order passed declaring the respondents as indigent. The Court has considered the petition and written objection and arrived at a conclusion that the respondents who were the defendants in the original suit and filed a petition making counter claim as pauper and such declaration of pauper if not resisted by the State, the petitioner has no cause of action to challenge that order by filing a revisional application.

The revisional application is, therefore, found to be devoid of any merit and hence rejected.