

THE HIGH COURT OF TRIPURA
AGARTALA

CRP 95 of 2015

1. Oil and Natural Gas Corporation Ltd.,
(Represented by the Asset Manager)
Tripura Asset, Badharghat,
P.S. Amtali, West Tripura.
2. In-Charge HR-ER,
Oil and Natural Gas Corporation Ltd. (ONGC),
Tripura Asset, Badharghat,
P.S. Amtali, West Tripura.

..... *Petitioners*

- Vs. -

1. Shri Nikunja Das,
2. Shri Uttam Das,
Sons of Shri Niranjana Das,
Resident of Chotobagai,
P.O. Bachaibari, District – Khowai.

..... *Respondents*

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the petitioners : Mr. S. Deb, Sr. Advocate.
Mr. P.B. Dhar, Advocate.

For the respondents : Mr. D.K. Biswas, Advocate.
Mr. G.K. Nama, Advocate.

Date of hearing & : 10.09.2015.
delivery of
Judgment & order

Whether fit for : No.
Reporting

JUDGMENT & ORDER (ORAL)

This petition under Article 227 of the Constitution of India is directed against the order dated 27th July, 2015 passed by

the learned Civil Judge, Senior Division, West Tripura whereby, he rejected the application filed by the petitioners (hereafter referred to as 'the defendants') for permitting it to produce certain documents.

2. The undisputed facts are that a suit was filed by the respondents-plaintiffs against the ONGC. It appears that in the year 2013, the plaint was amended. Thereafter, evidence of the plaintiffs was recorded in May, 2015 and the case was fixed for evidence of the defendants on 27.07.2015. On that day, the defendants sought to produce certain documents and application under Section 151 of the CPC was filed seeking permission to accept the documents and exhibiting them in evidence. The application reads as follows:-

"Humble defendants most respectfully states that certain classified documents under the provisions of Official Secrets Act in connection with this case which could not be earlier produced before this learned court are being submitted by a firisti today.

For being exhibited during evidence of the defendants before this learned court which may kindly be accepted.

These documents are essential for just and proper adjudication of the case and hence the instant application.

It is therefore prayed that your honour will be pleased to allow the same and oblige, and/or pass such other order or orders; direction or directions as deemed fit and proper."

3. The only reason given in this application is that certain classified documents under the provisions of Official Secrets Act could not be produced earlier and were being submitted on that date. It was also submitted that these documents are essential for proper adjudication of the case. Other than making this bald

statement, not a word has been stated as to why these documents were not produced at an earlier stage.

4. I am also unable to find out how the documents which are proceedings of a Committee for acquisition of land, Memorandum of understanding and un-registered deed of agreement' are documents falling within the meaning of the Official Secrets Act. This means that the petitioner-Corporation tried to mislead the Court by stating that these are documents which were classified as official secret documents and therefore, could not be produced in the Court at an earlier stage.

5. Another disturbing aspect of the matter is that after the learned trial Court refused to allow this application, counsel for the defendant stated that he will not examine the witness in attendance on that date and hence, therefore, the witness were discharged without examination. Since there was no other witness, the defence of the defendants was closed.

6. This practice is not acceptable. In case, the counsel is aggrieved by the order of the Court, the counsel should inform the Court that the counsel wants to approach the higher Court, but he cannot say that he will not examine the witness. The witness could have been examined and the Court could have been requested for a longer date so that in the mean time, the petitioner-Corporation

could have approached this Court and if the petition was allowed then the same witness could have been called for further examination.

7. However, this practice is of virtually browbeating the Court that since the application has not been allowed, the witness will not be examined, cannot be appreciated.

8. In this view of the matter, I find no merit in the petition which is, accordingly, dismissed.

9. Send down the LCRs forthwith.

CHIEF JUSTICE

sima