

# THE HIGH COURT OF TRIPURA

## AGARTALA

### CRP No. 14 of 2010

#### **Petitioner :**

**Smti Nilu Das,**  
Wife of late Makhan Lal Das,  
Care of Sri Dhruba Deb Sarkar,  
Resident of Ramnagar Road No.3, Agartala,  
P.S-West Agartala, District-West Tripura.

#### **By Advocate :**

Mr. P. Dutta, Adv.

#### **Respondent :**

**1. Ms. Kalyani Roy,**  
Wife of Sri Dinesh Ch. Saha,  
Of Tripura Bar Association,  
Room No.9, Agartala,  
West Tripura.

**(Respondent-in-person. )**

#### **Proforma Defendants :**

**1. The State of Tripura.**

Represented by the Secretary, Department of Home  
Affairs, Govt. of Tripura, Agartala.

**2. Sri Deba Prasad Roy,**

Son of Sri Durga Prasad Roy,  
S.I of Police,  
Presently attached to Kalyanpur P.S,  
Previously attached to West Agartala P.S.  
(I/O of the case)

**3. Sri Sanjoy Biswas.**

Son of Late Nripendra Ch. Biswas,  
Presently promoted to Inspector of Police,  
Attached to the East Agartala,  
P.S, First I/O of the case,  
Previously S. I. of police,  
Attached to the West Agartala, West Tripura.

#### **By Advocate :**

Mr. B. Dutta, Adv.

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

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

Date of hearing &  
Judgment & Order : **10<sup>th</sup> April, 2015.**

Whether fit for reporting :

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

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

This petition is directed against the order dated 01.12.2009 wherein the application filed under Order XII, Rule 2 CPC has been partly allowed. I am of the considered view that neither the Court below nor the parties have understood the scope of ambit of Order XII of the Code of Civil Procedure.

**[2]** Order VII deals with filing of complaints and Order VII, Rule 14 all documents which are relied upon by the parties and are against possession must be filed with the complaint. It is one of the conditions of the Code of Civil Procedure that the copies of the documents must be annexed with the complaint. The parties are at liberty to file the originals of the documents before framing of issues. There is no doubt that the plaintiff filed copies of the documents along with the complaint.

**[3]** Under Order VII, Rule 14 if the plaintiff wants to rely upon certain documents which are not in his possession he must file a list of reliance along with the complaint stating what are the details of the documents, in whose possession the documents are lying and how they are sought to be produced and finally what is their relevance in the case.

**[4]** Written statements are filed under Order VIII CPC.

**[5]** Order IX CPC deals with appearance and non appearance of the parties and the consequences thereof.

**[6]** Order X permits a Court to call any of the parties for examination to find out whether they admit or deny anything which is stated in the pleading.

**[7]** Order XI of the CPC deals with discovery and inspection of documents and either party can issue notice to the other party to produce certain documents or inspect them.

**[8]** Order XII deals with the admissions. Under Rule 2 of Order XII a party can ask the other party to admit or deny certain documents filed by him. If the party does not admit or deny documents and those documents have to be proved by the party then if the documents are proved to be correct then the party who has not admitted or denied the documents can be burdened with the costs of proving the documents. That is the only consequence of not complying with Order XII, Rule 2 of the CPC. There is no other consequence. Merely because a document is not admitted or denied does not make it admissible in evidence. However, if a document is admitted then that can be exhibited in evidence without formalities.

**[9]** Order XIII deals with the production, impounding and return of documents. Order XIV deals with framing of issues. An application under Order XII has to be filed before framing of issues because once trial starts then there is no concept of admission or denial of documents. Admission or denial of documents is required at the stage before framing issues to reduce the controversy between the parties.

**[10]** As far as the present case is concerned, the application under Order XII, Rule 2 was filed on 18.8.2009 and issues were framed on 18.1.2010. The application was filed before framing of issues so the documents could have been taken on record. Therefore, I find no error in the order of the trial court to this limited extent. However, the plaintiff is directed to supply to all the three counsel appearing in the trial Court within 4(four) weeks from today all the 78 sheets of papers which the plaintiff relies upon

against proper receipt. In case these documents are not supplied to the opposite parties within 4(four) weeks from today then the plaintiff shall not be permitted to prove those documents which the plaintiff relies upon.

**[11]** The parties who are present through their counsel are directed to appear before the learned Trial Court on 21<sup>st</sup> May, 2015 and thereafter the Trial Court shall proceed with the matter in accordance with law.

**[12]** The petition is disposed of in the aforesaid terms. No costs.  
Send down the LCRs forthwith.

**CHIEF JUSTICE**