

THE HIGH COURT OF TRIPURA
A G A R T A L A

CRP 55 OF 2010

1. Md. Abul Kashem,
2. Md. Hasem Mia,
Both are sons of late Kala Mia
Both are residents of village-Madhya
Laxmibill, P.O. & P.S.-Bishalgarh,
District-West Tripura.

..... **Defendants No.1 & 2-Petitioners.**

- V e r s u s -

1. Md. Dulu Mia,
S/O. Late Ali Mia,
2. Mossmt. Piyara Begam,
W/O. Md. Jaynal Abedin,
D/O. Late Ali Mia,
Both are residents of village-Madhya
Laxmibill, P.O. & P.S.-Bishalgarh,
District-West Tripura.

..... **Plaintiff-respondents.**

3. Mossmt. Anuwara Begam,
W/O. Md. Kader Mia,
D/O. Late Kala Mia,
Resident of village- Madhya
Laxmibill, P.O. & P.S.-Bishalgarh,
District-West Tripura.
4. Mossmt. Sushama Begam,
W/O. Md. Abu Taher,
D/O. Late Kala Mia,
Resident of village- Putia,
P.O.-Boxanagar,
P.S.-Kalamchowra,
District-West Tripura.

..... **Defdts. No.3 & 4-respondents.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the petitioners : Mr. D. Chakraborty,
Sr. Advocate,
Mr. H. Laskar, Advocate.

For the respondents 1 & 2 : Mr. P. Chakraborty,
Advocate,
Ms. S. Debnath, Advocate.

Date of hearing & judgment : 17.01.2015.

Whether fit for reporting : **NO.**

JUDGMENT & ORDER (ORAL)

This petition under Article 227 of the Constitution of India is directed against the order dated 26-03-2010 whereby the learned trial Court rejected the application filed by the defendant Nos.1 and 2 to submit some documents.

2. Admittedly, these documents were not filed along with the written statement. These documents were not even filed before framing of issues as required under Order XIII Rule 1 of the Code of Civil Procedure (CPC). After the plaintiff had filed his examination-in-chief by way of affidavit, the defendant filed an application praying that these documents be taken on record and along with a list of documents filed the documents. In the application, the only averment made with regard to non-production of the documents at an earlier stage is as follows:-

“1. That the defendants No.1 and 2 could not file the documents on the date fixed by the learned court for filing documents in that some documents were not in custody of defendants No.1 and 2 and they have to collect those documents from different departments of the government in different times by virtue of right to information.”

3. I have perused the documents as filed by the defendant No.2. The first two documents are rent receipts which must have been in the custody of the defendant from an earlier date. The third document is a certified copy of a registered sale

deed and this certified copy was prepared on 12-07-2007, i.e. immediately when the suit was filed and this is not of the year 2009. The fourth document is the original registered sale deed and this should have been with the defendant even at an earlier stage. The fifth document is a certified copy of the order dated 17-10-2007 and I find that the certified copy was also prepared on 13-11-2007. The sixth document is a certified copy of the inquiry report and this document was also prepared on 17-08-2007. The next five documents are the certified copies of Khatians and they are also prepared on 22-07-2008, 04-10-2007, 23-06-1998, 13-07-1998 and 28-05-1998 respectively. Then there is another certified copy of registered sale deed and that is certified to be true copy on 12-07-2007. There are three certified copies of the maps which have been certified to be true copies on 20-08-1998, 19-08-1998 and 28-10-1997 respectively.

4. It is thus obvious that all these documents were available with the defendant much earlier. The issues in the case were framed on 29-05-2008 and almost all these documents were available with the defendant prior to the said date. The explanation given by the defendants with regard to the late production of the documents is totally false. Hence, they cannot be permitted to file the documents except the copies of the Khatians which are the certified copies of the revenue record which is even otherwise admissible in evidence without any formal proof. Therefore, only the copies of the Khatians will be permitted to be taken on record and the other documents are not permitted to be taken on record.

5. The revision petition is disposed of in the aforesaid terms.

6. The suit is pending since the year 2007. The parties are directed to appear before the trial Court on 18-02-2015 and the trial Court shall make an endeavour to dispose of the suit at the earliest and in any event, not later than 31-07-2015.

7. Send down the lower court records forthwith.

CHIEF JUSTICE