

THE HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A

CRP No.1 of 2012

1. Sri Amrit Mandal,
S/o Late Satish Chandra Mandal,
Resident of Rangutia, Bamutia,
P.S. Lefunga, Dist. West Tripura.
2. Smti Kamala Mandal,
W/o Late Ananta Mandal,
Resident of Rangutia, Bamutia,
P.S. Lefunga, Dist. West Tripura.

..... *Petitioners.*

– *Versus* –

1. Smti Maya Rani Mandal,
W/o Late Sudhir Ch. Mandal.
 2. Smti Mamata Mandal,
D/o Late Sudhir Ch. Mandal.
- Both are residents of Rangutia,
P.O. Bamutia, P.S. Lefunga,
District - West Tripura.

..... *Respondents.*

B_E_F_O_R_E
THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA

For the petitioners	:	None.
For the respondents	:	None.
Date of hearing and delivery of judgment.	:	27.02.2015.
Whether fit for reporting	:	No.

JUDGMENT & ORDER (ORAL)

On 30th May, 2013 Mr. D Dutta had appeared and had prayed that the senior counsel is unwell and had prayed for an adjournment but had undertaken that he himself will argue the case

on the adjourned day. Therefore, on 30th May, 2013 this Court had passed the following order :

“30.05.2013

Heard Mr. D Dutta, learned counsel appearing for the petitioners who submits that Mr. D B Sen Gupta, learned senior counsel is unwell. However, Mr. Dutta, learned counsel undertakes before this court that, if some time is provided he will himself do the case.

On such undertaking, the matter is adjourned to 12.06.2013.

It is made clear that no further accommodation in this regard would be made by this court in future.

JUDGE”

On 12th June, 2013 none had appeared despite the undertaking given and the matter was adjourned to 29th July, 2013. Thereafter on 29th July, 2013 also it appears that none appeared. Today also none has appeared and, therefore, I have no other option but to proceed to decide the matter on merits.

2. This petition has been filed by the judgment debtors against whom a decree was passed in Title Suit(Partition) 80 of 1999 by the learned Civil Judge (Sr. Division), No.2, Agartala, West Tripura on 9th August, 2001. The execution petition was filed by Smt. Maya Rani Mandal and Smti Mamata Mandal claiming themselves to be legal heirs of the original decree holder Late Sudhir Mandal. Vide the impugned order the respondents were permitted to continue with the execution proceedings being the legal heirs of the original decree holder.

3. Though the judgment debtors took an objection that the respondents are not the legal heirs of the original decree holder, from the record of the executing Court I find that though various opportunities were given to the judgment debtors to appear in the case they did not do so and it appears to me that the judgment debtors had no other intention but to delay the execution of the decree passed against them. In this behalf reference may be made to the order dated 5th January, 2012 passed by the executing Court which reads as follows :

“Present
Sri S Sharma Roy
EX(T) 04/2010

05.01.12

Mr. S Debnath, Ld. Advocate is present today for and on behalf of the decree-holders.

The decree-holders also submits the money receipt in original issued by the Survey Commissioner Sri Mihir Dey on receipt of his fees on 5.1.12 and necessary requisites to this court.

One petition has been filed by the judgment-debtors seeking for an adjournment on the ground that they have already challenged this proceedings by filing a revision application before the Hon’ble High Court.

Heard both sides.

While Mr. D Sengupta, Ld. Sr. advocate verbally submitted that on 1.6.11 the judgment-debtors have filed an application under section 47 of CPC raising some question against the execution proceeding and unfortunately this court gave no opportunity to the judgment-debtors to submit on the said application.

I have carefully perused the order sheets and found that the judgment-debtors submitted a simple objection only against this execution proceeding and subsequently several adjournments were granted in favour of the judgment-debtors to participate in the hearing on the said objection, but ultimately the Ld. Lawyer of the judgment-debtors did not make any argument on the said petition.

However, for fair ends of justice, I hereby allow an adjournment in this proceeding today.

In the meantime office is directed not to issue any Writ to the survey commissioner and to deliver any document to him until further order.

Fix 02-02-2012 for hearing on the objection filed by the judgment debtors on 1.6.2011/further order.

*As dictated.
-Sd-
(S Sharma Roy)
Civil Judge, (Sr. Divn.)
(Court No.2)
West Tripura, Agartala."*

This clearly indicates that the judgment debtors were given full opportunity to contest the proceedings.

4. Therefore, I find no merit in the petition which is accordingly dismissed. Send down the LCRs forthwith.

CHIEF JUSTICE