

**THE HIGH COURT OF TRIPURA**  
**A\_G\_A\_R\_T\_A\_L\_A**

**CRP No.75 of 2011**

Sri Subal Kumar Dey,  
C/o Lt. Chandi Charan Dey,  
The Editor and Owner of 'Syandan Patrika'  
Syandan Bhavan, 41- Sakuntala Road, Agartala,  
P.S. West Agartala, District - West Tripura.

..... *Petitioner.*

- *Versus* -

1. **Sri Hareram Debnath,**  
Retired Asstt. Commandant of Tripura Police(Armed),  
Son of Late Bipin Chandra Debnath,  
Village and P.O. Dhaleswar,  
Near Dhaleswar Post Office,  
P.S. East Agartala, District - West Tripura.

2. **The Editor,**  
Ajkal Agartala Edition,  
Ramnagar Road No.4, P.O. Ramnagar,  
P.S West Agartala, District - West Tripura.

..... *Respondents.*

**B\_E\_F\_O\_R\_E**

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

For the petitioner : Mr. Raju Dutta, Advocate.

For the respondent No.1 : Mr. G S Bhattacharjee, Advocate.

Date of hearing and : 02.6.2015.  
delivery of judgment.

Whether fit for reporting :

|     |    |
|-----|----|
| Yes | No |
|     | ✓  |

**JUDGMENT & ORDER (ORAL)**

This revision petition has been filed by the defendant against the order dated 01.7.2011 passed by the learned Civil Judge (Sr. Division), Court No.2, Agartala, West Tripura rejecting the prayer

of the petitioner for dismissing the suit on the ground of misjoinder of causes of action and parties.

2. Briefly stated, the facts of the case are that the plaintiff-respondent filed a suit on 5.2.2009. This was a suit for damages and compensation for a sum of Rs.1,00,100/-. The allegation in the suit was that the plaintiff was a retired government servant and follows a particular religious belief. Smt. Sanhita Devi was one of the main disciples of the original head of the Cult being followed by the plaintiff. Unfortunately, Sanhita Devi was murdered at Kolkata on 16.4.2011. According to the plaintiff, after this assassination news items appeared in two newspapers '*Syandan Patrika*' & '*Ajkal*' which were defamatory. The editor of the *Syandan Patrika* was made party as defendant No.2 in the suit. The petitioner claims to be the editor of *Syandan Patrika* and has filed the present petition.

3. According to the averments made in the plaint, the news item was defamatory and therefore, the claim was made against the editor of *Syandan Patrika* defendant No.2 in the suit. It was also alleged that defendant No.1, editor of '*Ajkal*' Agartala Edition published a similar defamatory news item in his newspaper. In this case, the defendant No.1 first appeared and the defendant No.2 also put in appearance on 28.3.2009. On 4.5.2010 a petition was filed on behalf of defendant No.2 under Order VII Rule 11 challenging the maintainability of the suit on account of misjoinder of causes of action and parties. This petition was contested. In the meantime, the matter

was compromised between the plaintiff and the defendant No.1 and on 04.6.2011 the settlement was recorded. The claimant received a sum of Rs.9,500/- from the defendant above and the name of defendant No.1 was struck off later. Thereafter the suit was proceeded only against the defendant No.2. The learned trial Court rejected the petition under Order VII Rule 11 holding that the causes of action could have clubbed together.

4. Mr. R Dutta placed reliance on the judgment passed by this Court in ***CRP No.78 of 2008 (Subal Kumar Dey Vs. Sri Amarendra Kar Purkayastha and others)*** wherein in a similar matter the suit for compensation has been filed against the two different sets of defendants. This Court had held that the publication of a news item in a separate newspaper gives a separate cause of action and they cannot be combined. This Court had also held that the plaintiff would have to file separate suits against each of the newspapers or set of the editors and publishers of the newspapers and though the authors, the editors and the publishers of the newspapers joined in one suit but if similar news items have appeared in separate newspapers each gives rise to a separate cause of action for which separate suit has to be filed. However, it would be pertinent to mention that in that judgment this Court had observed as follows :

**8. If the plaintiff had appeared, one could have given him an option of choosing one set of defendants to continue with the suit but he did not even care to put in appearance and, therefore, even that option cannot be given to him. Therefore, the petition is allowed**

***and it is held that the suit is totally incompetent and not maintainable.***

Therefore, even in that case this Court had clearly held that if the plaintiff had appeared he would have been given a choice to choose which of the defendants he wanted to proceed against him. As far as this case is concerned, by now there is only one defendant in the suit and, therefore, there is no question of misjoinder of causes of action and the defect, if any, is no longer a defect which goes to the root of the suit. Therefore, the revision petition is dismissed.

**5.** This suit is of the year 2009. The parties are, therefore, directed to appear before the learned trial Court on ***20<sup>th</sup> July, 2015*** and the learned trial Court is directed to ensure that the suit is disposed of latest by ***31<sup>st</sup> March, 2016***.

Send down the LCRs forthwith.

**CHIEF JUSTICE**

*Sukhendu*