

THE HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A_

CRP No.77 of 2014

Smt. Namita Paul,
Wife of Sri Swapan Kumar Paul,
Resident of B.K. Road, Agartala,
P.S. East Agartala, District - West Tripura.

..... *Petitioner.*

– *Versus* –

1. **Food Corporation of India,**
Having its registered Office (Headquarter)
at Khadya Sadan, 16-20, Barakhamba Lane, New Delhi,
being represented by its General Manager,
NEF Region, Jowai Road, Shillong - 3, Meghalaya.
2. **The Area Manager,**
Food Corporation of India,
District Office, Agartala,
Colonel Chowmuhani, Agartala,
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. A K Bhowmik, Sr. Advocate,
Ms. A Banik, Advocate.

For the respondents : Mr. C S Sinha, Advocate.

Date of hearing and : 03.02.2015.
delivery of judgment.

Whether fit for reporting : No.

JUDGMENT & ORDER (ORAL)

The petitioner by means of this petition has prayed for setting aside the order dated 10th April, 2014 passed by the learned Civil Judge, Sr. Division, Court No.1, West Tripura, Agartala in Money Suit 28 of 2013 whereby the application filed by the petitioner for staying the aforesaid money suit was rejected.

2. Briefly stated, the facts of the case are that the petitioner Smt. Namita Paul and the Food Corporation of India(FCI) had entered into a contract and out of this contract some disputes have arisen. Smt. Namita Paul filed Money Suit No.44 of 2011 on 17.12.2011 claiming an amount of Rs.46,63,400/- from the Food Corporation of India. Thereafter the Food Corporation of India filed Money Suit No.28 of 2013 claiming an amount of Rs.1,23,11,613/- from Smt. Namita Paul.

3. It is not disputed that the parties to both the suits are common and that both the suits have arisen out of the same contract. They are virtually in the nature of counter-suits. Therefore, instead of staying the subsequent suit I am of the considered opinion that the interest of justice would be better served if both the suits are taken up for analogous hearing and heard, tried and disposed of together. The learned trial Court, if it feels proper, may even dispose them of by one judgment and a common decree.

4. The suit filed by Smt. Namita Paul being Money Suit No.44 of 2011 is pending in the Court of Civil Judge, Sr. Division, Court No.2, West Tripura, Agartala and the subsequent suit filed by Food Corporation of India being Money Suit No.28 of 2013 is pending in the Court of Civil Judge, Sr. Division, Court No.1, West Tripura, Agartala. It is directed that the suit filed by the Food Corporation of India shall also stand transferred to the Court of the Civil Judge, Sr. Division, Court No.2, West Tripura, Agartala and both the cases shall be taken up together.

5. Learned counsel for the parties submit that as far as they remember no witness has been cross-examined in Court though affidavit of one or two witnesses may have been filed. If that be the position, then the Court will re-frame the issues arising out of both the suits so that one set of issues is framed with regard to both the suits though they may be separately numbered in each suit and thereafter the plaintiff of the earlier suit Smt. Namita Paul can be directed to produce her evidence by way of affidavit and also for cross-examination and thereafter the evidence of the Food Corporation of India can be recorded and in case any rebuttal evidence is required, that can also be recorded.

6. It is more than obvious that both the suits are in the nature of counter-claims to each other and the decision of one suit will vitally affect the rights of the parties in the other suit also. Therefore, both the suits shall be heard and disposed of together. The parties through their counsel are directed to appear before the Court No.2 on **18th March, 2015**. The Registry is directed to send a copy of this judgment to both the Courts and the Presiding Officer of Court No.1 be directed to transfer the record of the Money Suit pending before him to the file of Court No.2.

With the aforesaid directions the petition is disposed.

CHIEF JUSTICE