

THE HIGH COURT OF TRIPURA

A G A R T A L A

CRP No. 120 of 2012

Plaintiff-Petitioner :

Smti. Afia Bibi,

W/o. Sri Abu Taher of Village an PO: Murapara,
PS: Radhakishorepur, District: Gomati, Tripura.

By Advocate :

Mr. D. K. Das Choudhury, Adv.

Respondents :

1. The State of Tripura,

Represented by the District Magistrate &
Collector, South Tripura (presently Gomati),
Udaipur, P.O & P.S: Radhakishorepur, Tripura.

2. The District Panchayet Officer.

South Tripura (presently Gomati),
Udaipur, P.O & PS : Radhakishorepur, Tripura.

3. The Block Development Officer,

Matarbari Block Office, P.O: Matarbari, P.S:
Radhakishorepur, Udaipur, District-Gomati,
Tripura.

4. Matarbari Block Panchayet Samiti,

Represented by its Chairman, P.O: Matarbari,
P.S: Radhakishorepur, Udaipur, District-Gomati,
Tripura.

5. The Gaon Panchayet- South Murapara,

PO : Murapara, P.S: Radhakishorepur, Udaipur,
District: Gomati, Tripura.

By Advocate :

Mr. S. Chakraborty, Addl. G. A.

B E F O R E

THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA

Date of hearing &
Judgment & Order : **10th April, 2015.**

Whether fit for reporting :

Yes	No
	✓

JUDGMENT & ORDER (ORAL)

This petition by the plaintiff-petitioner is directed against the order dated 06.10.2012 whereby the learned Trial Court has closed the right of the plaintiff-petitioner to lead evidence.

[2] Briefly stated the facts of the case are that the plaintiff-petitioner filed a suit for declaration praying that her right, title and interest in possession over the suit land being declared and confirmed and the respondent-defendants be restrained from interfering in her possession of the suit land.

[3] Issues in the suit was framed on 12.09.2011. The case was then adjourned to 1.11.2011 for filing list of witnesses. The matter was listed first time for examination of witness on 29.11.2011 when the evidence of chief of two witnesses were submitted by way of affidavit. However, adjournment was sought for on the ground that affidavits of other witnesses were also to be filed. The case was adjourned to 2.1.2012 when again a prayer for adjournment was made on behalf the plaintiff-petitioner and on her request the matter was adjourned to 27.1.2012. This time a request for adjournment was made on behalf of the plaintiff and the matter was then adjourned to 27.2.2012. On 27.2.2012 another application was filed by the plaintiff praying for time and the adjournment was again granted and the matter was adjourned to 28th March, 2012. On this date the counsel for the plaintiff again filed a petition for adjournment and this adjournment was granted. The case was adjourned to 11.4.2012 and on this date the plaintiff again filed an application for adjournment and the matter was adjourned to 5.5.2012. On this date also an application for adjournment was filed on

behalf of the plaintiff. The matter was then adjourned to 4.6.2012. On this date three witnesses were present including the plaintiff but again a petition was filed for adjournment of the case on the ground that other witnesses were also sought to be examined. On 25.6.2012 the next date another petition was filed on behalf of the plaintiff for adjournment of the case. Thereafter on 18.07.2012 the case was fixed for cross-examination of the plaintiff's witness. Three witnesses were present out of which P.W.-1, Afia Bibi was cross examined and other two witnesses were discharged due to shortage of time. The next date fixed was 22.08.2012 on which date the defendants prayed for an adjournment and the case was adjourned to 10.09.2012. On this date the plaintiff was present along with her counsel but the Presiding Officer was on leave and, therefore, no effective hearing could be done. Thereafter the case was fixed on 06.10.2012 for examination of plaintiff's witnesses who were not present and then the impugned order was passed.

[4] Thus from the record, I find that the plaintiff has taken 10(ten) adjournments. However, at the same time I cannot lose sight of the fact that these adjournments have not been opposed by the defendants and they have been granted at the asking by the trial Court. This Court cannot also lose sight of the fact that on 18.7.2012 all the three witnesses were present but only one witness was cross-examined and the other two witnesses could not be cross-examined. The plaintiff in this case has been indolent and has not been pursuing her matter in a proper manner. However, keeping in view the larger interest of justice, I deem it fit to grant one last opportunity to the petitioner to produce evidence, subject to payment of Rs.5000/- as costs.

[5] The parties are directed to appear before the learned Trial Court on 28th May, 2015 on which date the plaintiff shall produce his remaining witnesses before the Trial Court. He shall also tender the costs on the same date and if the costs are not tendered before the Court on 28th May, 2015 this petition shall be deemed to have been dismissed and the plaintiff shall not be permitted to get his witnesses cross-examined. In case the witnesses are present, they shall be cross-examined on the said date and thereafter the matter shall be dealt with by the learned Trial Court in accordance with law.

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

CHIEF JUSTICE