

THE HIGH COURT OF TRIPURA
AGARTALA

Crl. Rev. P. No. 59 of 2014

Petitioner :

Shri Tapas Roy,
S/o. Sri Chiru Ranjan Roy, resident of South
Badharghat Roy Colony, P.O & P.S-Amtali, District-
West Tripura.

By Advocate :

Mr. P.K. Ghosh, Adv.

Respondent :

Smt. Manti Saha (Roy)
W/o. Sri Tapas Roy,
D/o. Sri Shib Sankar Saha, resident of Bholagiri
Ashrampara, P.O & P.S- Amtali, West Tripura.

By Advocates :

Mr. A.C. Bhowmik, Sr. Adv.
Mr. A. Bhowmik, Adv.

B E F O R E
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

Date of hearing &
Judgment & Order : **17th September, 2014.**

Whether fit for reporting :

Yes	No
√	

J U D G M E N T & O R D E R(ORAL)

By means of this petition, the petitioner has challenged the order dated 21.07.2014 passed by the learned Family Court, West Tripura, Agartala in Case No. Civil Misc 91 of 2014.

[2] Briefly stated, the facts of the case are that the respondent-wife filed a petition claiming maintenance under Section 125 Cr. P. C. The petitioner-husband was the respondent before the learned Family Court. This petition was taken up for the first time on 4th March, 2014 when notice was issued to the respondent-husband for 5th May, 2014. Reply was filed by the husband on

21.06.2014 and the matter was listed for evidence on 21.07.2014. On 21.07.2014 the wife was present along with her witnesses and they were all examined. The husband was present and he was examined and the following order was passed by the learned Family Court:

**"21.07.2014
Petitioner is present alongwith one witness.
OP is present. No witness is present for the OP.
Both the parties and the witness of the petitioner are
examined & cross examined.
Fix 19.08.19 for argument."**

[3] It was alleged in the petition that in fact an application for adjournment had been filed by the husband and that application has not even been considered by the learned Trial Court. Since there was no reference to such an application in the order dated 21.7.2014, I had called for the record of the trial Court and I have found from the record of the trial Court that there is a written application filed by the husband praying that one month time be granted to him to adduce certain evidence.

[4] Before the Family Court the parties are not represented by the counsel. The Presiding Officer of the Family Court must realize that the parties are not aware of the niceties of law. There is nothing in the order dated 21st June, 2014 that in case the witnesses are not available on the next date i.e. 21st July, 2014 then no further opportunity shall be granted. This was the first date fixed for evidence and the witnesses of the respondent-wife were examined. The husband also appeared in the witness box and was examined. He had asked for one month's time only to produce his other evidence. Heavens would not have fallen if one month's time was granted.

[5] I am constrained to observe that the record of the trial Court i.e. the order dated 21.07.2014 is not a true reflection of the events which took place in

the Court. The stand of the petitioner husband that he had made a request for adjournment is supported by the written application which is on the record of the Family Court. Even if the Family Court wants to reject such application, he in all fairness should have recorded that the husband had requested for an adjournment by filing a written application but he was not inclined to accept such request and should have then rejected the application. In the Order dated 21.07.2014 quoted above there is no reference even to such application. This sought of practice is not at all proper and should be discontinued forthwith. The Court record should be a true reflection of what has transpired in Court and all relevant facts should be stated in the order passed by the Court.

[6] I am of the considered view that since this was the first date for evidence the request of the husband should have been favourably considered. I therefore, allow the petition and grant the husband one opportunity to lead evidence. The case is listed before the trial Court on 24.09.2014. Both the parties are directed to appear before the trial Court on the said date. On this date the Family Court will grant one date either in the end of October, 2014 or in the beginning of the November, 2014 to the husband to produce evidence. Thereafter, the Family Court shall dispose of the matter latest by 29th November, 2014.

[7] Petition is disposed of in the aforesaid terms. Send down the LCRs forthwith.

The Registrar General is directed to circulate a copy of this order to all Members of the Tripura Judicial Service.

Send down the LCRs forthwith.

CHIEF JUSTICE