

20/06/2024

Present
Sri. Sushobhan Das
Civil Judge, Jr. Division
Gonda Twisa, Dhalai, Tripura.
Case No. TS 03 of 2024
For Plaintiff: Shri S. Debnath, Ld. Adv
For Defendants : Shri. D.K. Reang, Ld. Adv
Shri. S. Sarkar, Ld. Adv

1. Today is fixed for filing WS/Hearing/ Order.
2. On 04.06.2024, Learned Advocate for the defendants has filed an application under Order VII Rule 11 (e) of CPC to reject the plaint on the ground that the plaint has not been filed by the plaintiff in duplicate.
3. Heard both the sides at length.
4. Learned Advocates for the defendants argue that the non-compliance with the procedural requirement of filing the plaint in duplicate is a sufficient ground for the rejection of the plaint and therefore the plaint should get rejected because the defendants were highly prejudiced for the same.
5. Learned Advocate for the plaintiff by filing a written application u/s 151 of CPC along with a duplicate copy of the plaint has brought to the court's attention the poor financial condition of the plaintiff. Learned Advocate has argued that refiling the suit afresh, solely due to the lack of a duplicate copy, would impose a significant financial burden, potentially denying the plaintiff access to justice. This court must consider the principle that procedural rules are intended to serve as aids to justice and not as instruments of oppression. Learned Advocate has also pointed out the fact that the defendants remained silent throughout the statutory 90 days period of filing of written statement and since they could not prepare the same within the said period, therefore on the last day they have filed this petition only to gain further time to file written statement and to prejudice the plaintiff. Learned Advocate also submitted that the plaintiff has submitted the requisite amount of court fee and has also provided a copy of the plaint to the defendants and as such the defendants were in no way prejudiced. By submitting the above points, Learned Advocate prayed for accepting the duplicate copy of the plaint for ends of justice.
6. Heard and considered.
7. In Salem Advocate Bar Association, T.N. v. Union of India, (2005) 6 SCC 344, the Supreme Court emphasized that procedural laws should facilitate justice rather than hinder it. Similarly, in J. K. International v. State, (2001) 3 SCC 462, it was held that procedural prescriptions are the handmaid of justice. These judgments support the view that procedural defects should be rectified rather than used to defeat substantive rights.
8. This court finds that the argument of the defendants focuses on a procedural technicality rather than the substantive merits of the case.
9. It is important to determine whether the procedural defect in

question prejudices the defendants' case. The defendants has received the original plaint and has had ample opportunity to respond to the claims made by the plaintiff. The absence of a duplicate copy of the plaint does not affect the defendants' ability to defend the suit on its merits.

- 10.** Given the plaintiff's financial difficulties, it would be unjust to dismiss the suit on a procedural ground that can be easily rectified. The plaintiff should be given an opportunity to correct the procedural defect by filing a duplicate copy of the plaint.
- 11.** Therefore, in the interest of justice and in line with the principles of procedural law aimed to facilitate substantive justice, this court hence accepts the duplicate copy of the plaint so submitted by the plaintiff today. This rectification will address the procedural requirement without causing undue hardship to the plaintiff or prejudice to the defendants.
- 12.** On the ground of the above discussion, the defendants' petition seeking the rejection of the plaint on the ground of non-submission of a duplicate copy is hereby rejected.
- 13.** The defendants have filed two seperate written statement.
- 14.** Next date be fixed for filing of documents.
- 15.** Fix **10.07.2024** for filing of documents.
- 16.** Supply a copy of this order to both the sides.

As dictated

(Shri. Sushobhan Das)