

HIGH COURT OF TRIPURA
AGARTALA
CRP 75/2021

For Petitioner(s)	:	Ms. P. Dhar, Advocate
For Respondent(s)	:	Mr. S. Lodh, Advocate

HON'BLE MR. JUSTICE ARINDAM LODH
Order

18/10/2021

Heard Ms. P. Dhar, learned counsel for the petitioner as well as Mr. S. Lodh, learned counsel appearing for the respondent no.1.

This is an application filed under Article 227 of the Constitution of India asking this court to exercise its superintendence.

By order dated 04.10.2021, the petitioner was asked not to give effect to the resolution dated 13.03.2021 as well as letter No. F. 38/TCA/AGT/ADMN/19-20/4249, dated 15.03.2021 issued by the respondent no. 2 till the next date. This is the order passed by the learned Additional District Judge, Court no.2, West Tripura, Agartala, challenged by the petitioner herein.

In my opinion, the petition itself is not maintainable and it is liable to be dismissed at the threshold.

The petitioner did not take the recourse of the provisions prescribed under the statute itself. This interim order was passed under Order XXXIX Rule 1 and 2 of the CPC by the learned Additional District Judge. If the petitioner was not satisfied with the said order, he could have challenged the order taking the recourse of the provisions prescribed under Order XXXIX Rule 4 of the CPC, else, the petitioner could have approached the appellate forum challenging the said order dated 04.10.2021 under order XLIII Rule 1(r) of the CPC.

This court has given opportunity to withdraw the instant petition, but, the petitioner has prayed for time to seek instruction.

I do not find any reasonable ground to keep the record pending before this court since I have already held that the instant petition under Article 227 of Constitution of India is not maintainable. This is not the case where this court will exercise its constitutional power. The remedy of the petitioner is imbibed in the statute (CPC) itself. Hence, I am compelled to dismiss the instant petition in limine.

However, the petitioner may take the recourse of the provision prescribed under Order XXXIX Rule 4 of the CPC or Order XLIII Rule 1(r) of the CPC to modify/vacate/discharge or to challenge the order dated 04.10.2021.

Accordingly, the instant petition stands dismissed.

Pending application(s), if any, also stands disposed.

JUDGE