

**HIGH COURT OF TRIPURA  
AGARTALA**

**CRP No.76 of 2024**

Smti. Chhamina Bibi, W/O. Late Anu Miah, Resident of village Aralia,  
Sonamura, P.S. Sonamura, District Sepahijala, Tripura.

.....Petitioner(s);

Versus

1. Sri Anowar Hossain, S/O. Late Hanif Miah, Resident of village West Aralia,  
Sonamura, P.S. Sonamura, District Sepahijala, Tripura.
2. Smti. Farjana Taher, D/O. Abu Taher, Resident of village West Aralia,  
Sonamura, P.S. Sonamura, District Sepahijala, Tripura.
3. Sri Abdul Jabbar, S/O. Late Chan Miah, Resident of village Moynama,  
Sonamura, P.S. Sonamura, District Sepahijala, Tripura.
4. Smti. Sima Akater, W/O. Yusuf Miah, Resident of village West Aralia,  
Sonamura, P.S. Sonamura, District Sepahijala, Tripura.

.....Respondent(s)

For Petitioner(s) : Mr. R. Debnath, Advocate,  
Ms. Priya Saha, Advocate.

For Respondent(s) : None.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH**

**Order**

**29/08/2024**

Heard learned counsel for the petitioner.

2. By the impugned order dated 09.07.2024 passed in T.S. 05 of 2022, the learned Civil Judge (Sr. Division), Sepahijala, Sonamura has refused to allow leave under Order VII Rule 14(3) of the Civil Procedure Code to the plaintiff to introduce a document which is an order of cancellation of the survival certificate of Anu Miah, husband of the plaintiff. The learned Trial Court has rejected the prayer on the ground that no reference of any such disputed survival certificate and its cancellation order are mentioned anywhere in the pleadings of the plaintiff.

3. Learned counsel for the plaintiff submits that the survival certificate of Anu Miah was actually misplaced and traced out on 11.07.2023 and then filed on 12.07.2023. Petitioner seeks to introduce the order of cancellation of the survival certificate of Anu Miah obtained by defendant No.1 fraudulently as it is necessary to prove the case of the plaintiff. The plea was contested by defendant No.1 *inter alia* on number of grounds with a specific contention that survival certificate alone does not prove the legal heirship of a deceased person. Therefore, its issuance or cancellation *per se* does not establish that defendant No.1 is not the legal heir of Anu Miah. Order VII Rule 14 reads as under:

**ORDER VII**

**[14. Production of document on which plaintiff sues or relies.]**-(1) Where a plaintiff sues upon a document or relies upon document in his possession or power in support of his claim, he shall enter such documents in a list, and shall produce it in court when the plaint is presented by him and shall, at the same time deliver the document and a copy thereof, to be filed with the plaint.

(2) Where any such document is not in the possession or power of the plaintiff, he shall, wherever possible, state in whose possession or power it is.

[(3) A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

(4) Nothing in this rule shall apply to document produced for the cross-examination of the plaintiff's witnesses, or, handed over to a witness merely to refresh his memory.]

It is trite law that in the absence of pleading, evidence if any, produced by the parties cannot be considered. It is also equally settled that no party should be permitted to travel beyond its pleading and that all necessary and material facts should be pleaded by the party in support of the case set up by it. The object and purpose of pleading is to enable the adversary party to know the case it has to meet.

4. In the present case, the learned Trial Court has rightly observed that there are no pleadings in relation to survival certificate in the plaint.

Therefore, the document sought to be relied upon by the plaintiff cannot be allowed. Under Order VII Rule 14(3) of CPC, such a document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but could not be produced or entered accordingly, could be produced only with the leave of the Court and be received in evidence on his behalf. However, in the absence of any pleading to that effect such a document could not be introduced by taking resort to the above provision by the plaintiff.

5. However, learned counsel for the petitioner submits that petitioner may be allowed to seek an amendment in the pleadings under Order VI Rule 17 of the CPC.

6. It is up to the petitioner to make such an application before the learned Trial Court as is permissible in law. However, this Court does not find any error in the impugned order and accordingly the instant petition is dismissed.

7. Pending application(s), if any, shall stand disposed of.

**(APARESH KUMAR SINGH), CJ**

Pijush/

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