

**HIGH COURT OF TRIPURA  
AGARTALA**

**CRP No.16 of 2025**

Smt. Helen Rani Roy, W/o Lt. Bhupendra Nath Roy, Resident of Shakuntala Road, Near Rabindra Bhawan, Agartala, Pin-799001, West Tripura

.....Petitioner(s);

Versus

Sri Ratan Dutta, S/o Late Sitanath Dutta, Resident of Akhurah Road, Agartala, Pin-799001, West Tripura

.....Respondent(s).

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For Petitioner(s) : Mr. Tapash Datta Majumdar, Sr. Advocate,  
Mr. Dalit Kalai, Advocate,  
Ms. Rimi Debbarma, Advocate.

For Respondent(s) : None.

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

**Order**

**28/02/2025**

Heard Mr. Tapash Datta Majumder, learned senior counsel for the petitioner.

2. Learned senior counsel for the petitioner submits that the learned Court of Civil Judge (Sr. Division), Court No.3, West Judicial District, Agartala has refused the request of the defendant in counter claim i.e. T.S. (CC) 01 of 2017 being the plaintiff/petitioner herein to commence examination of the witnesses in the counter claim after examination of witnesses in the main suit. The learned Trial Court has referred to the provisions of Order VIII Rule 6A to 6G of CPC and observed that even if the suit of the plaintiff is stayed, discontinued or dismissed, the counter claim may nevertheless be proceeded with. It further observed that going by that analogy, the logical interpretation would be that the counter claim would be decided on its own merits and would proceed independently. Fixing of the main case and counter case together on a same date is one thing and proceeding of the cases one after the other regarding

a particular stage is another thing. The learned Trial Court held that counter claim should proceed as per its stage irrespective of the stage at which the main case is pending. Therefore, the Court held that the submission of learned counsel for the defendant/plaintiff that the examination of witnesses in counter case should only commence after examination of witnesses in the main case is not acceptable. The prayer of the defendant/plaintiff in counter claim being T.S. (CC) 01 of 2017 was accordingly rejected.

3. Upon hearing learned senior counsel for the petitioner and after going through the impugned order, this Court does not find any infirmity in the approach of the learned Trial Court. Even if the plaint is dismissed, the counter claim has to be decided independently.

4. Learned senior counsel for the petitioner submits that the defendant/plaintiff would have no grievance if the main suit and the counter claim proceed simultaneously, and not one after the other as originally prayed before the learned Trial Court. He further submits that the learned Trial Court has, by the impugned order, fixed the next date i.e. 30.09.2024 for examination of the PWs of the Counter Claim. However, the trial has progressed ahead after that date. Therefore, the learned Trial Court may be directed to proceed simultaneously with the main suit also.

5. Be that as it may, since the approach of the learned Trial Court appears to be sound as it has held that counter case would proceed irrespective of the stage at which the main case is pending, the impugned order does not require any interference. The proceeding of the counter claim is not dependent

upon the approach of the plaintiff in the main suit, but guided by the provisions of the Civil Procedure Code, in particular Order VIII of CPC. Therefore, it is left to the judicial discretion of the learned Trial Court to proceed simultaneously depending upon the stage of the main suit and the counter claim.

6. The instant revision petition is disposed of with the aforesaid observations.

**(APARESH KUMAR SINGH), CJ**

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