

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) NO.9 OF 2023**

Sri Haradhan Sarkar
Vs.
The State of Tripura and ors.

HON'BLE THE CHIEF JUSTICE (ACTING)

Present:

For the Petitioner(s) : Mr. H. Sarkar, Petitioner-In-Person.

For the Respondent(s) : Mr. D. Bhattacharjee, G.A.
Mr. S. Saha, Advocate.
Mr. A. Bhaumik, Advocate.

05.01.2023

Order

The case of the petitioner is that for the purpose of constructing extension of his dwelling house, the petitioner submitted a prayer for diversion of land on 24.06.2011. Getting no response, in connection therewith, on 30.03.2018, the petitioner served a Legal Notice on the respondents, to dispose of his said application. On 05.07.2018, the petitioner was informed that a reference was made to the Revenue Secretary, to frame a specific guideline for land diversion. Being aggrieved by the non-disposal of his prayer, the petitioner filed a writ petition and vide judgment and order dated 08.01.2019, this Court directed the respondents to dispose of his prayer, with a

reasoned order, within a period of 1(one) month and with an opportunity of personal hearing. On 14.01.2019 and 01.06.2019, the petitioner submitted representation. On 27.08.2019, the respondents issued a memorandum noting that the petitioner did not pray for diversion to any specific class of land and the consent of the other co-sharer is not found enclosed. Thereafter, the petitioner filed a contempt petition. Vide order dated 28.01.2021, this Court disposed of the application of the petitioner and directed the respondents to comply with the said order dated 08.01.2019 within a period of 30 days from the date of receipt of the copy of that order. The respondents issued a letter dated 12.02.2021, recording that both the District and State Committee had recommended for diversion, but the matter is lying pending before the State Committee. On 26.02.2021, the prayer of the petitioner for diversion was again sent to SDM Sadar for causing further inquiry. Objecting thereto, the petitioner submitted a letter dated 03.03.2021, but the same did not evoke any response. The petitioner submitted a prayer for a direction upon the State respondents to issue an order, permitting the prayer for the diversion of land, the prayer had been repulsed vide order dated 14.11.2022. Thereafter the District Magistrate and

Collector, West Tripura vide order dated 24.11.2022 *inter alia* noted that the petitioner is possessing another alternative land for dwelling purposes and that the Fire and Emergency Services Government of Tripura, has not issued No-objection Certificate for the diversion of the land of the petitioner. Stating thus the prayer of the petitioner for diversion of land has been repulsed. Along with the said order, a copy of the Minutes of the Meeting dated 05.11.2022 was also enclosed therewith

2. Aggrieved thereby, the petitioner has filed this instant writ petition praying for the following reliefs:-

"i) Issue Rule, calling upon the official respondents and each one of them, to show cause as to why a Writ of Certiorari and/or in the nature thereof, shall not be issued, for directing the respondents, to transmit the records, appertaining to this writ petition, lying with them, for rendering substantive and conscionable justice to the petitioner, and for quashing/setting aside the impugned order dated 24.11.2022.

ii) Issue Rule, calling upon the official respondents and each one of them, to show cause as to why a Writ of Mandamus and/or in the nature thereof, shall not be issued, for mandating/directing them to forthwith revoke/rescind the impugned order dated 24.11.2022 and thereupon, allow the prayer of the petitioner, seeking diversion of land;

iii) Call for the records appertaining to this petition;

iv) After hearing the parties, be pleased to make the Rule Absolute in terms of i & ii. Above;

v) Costs of an incidental to his proceeding;

vi) Any other relief(s) as to this Hon'ble High Court may deem fit and proper;"

3. Heard Mr. H. Sarkar, petitioner-in-person, and Mr. D. Bhattacharjee, learned G.A., assisted by Mr. S. Saha, learned counsel appearing for the State-respondents and

Mr. A. Bhaumik, learned counsel appearing for the respondent-Agartala Municipal Commissioner.

4. Mr. H. Sarkar, petitioner in person submitted that a bare reading of Section 20 of the TLR & LR Act, 1960 would show that possession of alternative land for dwelling purposes by a person cannot constitute a ground for rejection of his prayer-seeking permission for diversion of another land. The impugned order dated 24.11.2022 is grossly unsustainable and hence liable to be set aside and quashed.

5. Mr. D. Bhattacharjee, learned G.A. sought a short accommodation to take instruction on the points raised by the petitioner in his arguments.

6. After hearing both sides and perusing the evidence on record, this Court is of the view that possession of alternative land for dwelling purpose by a person cannot constitute a ground for rejection of his prayer seeking permission for diversion of another land. The impugned order dated 24.11.2022 passed by the State-respondents is not a reasoned order and the same is liable to be set aside. Accordingly, the same is set aside. Further, the respondents are directed to pass a speaking order on the impugned issue

within a period of 4(four) weeks from the date of receipt of the copy of this order.

7. With the above observation and direction, this instant writ petition is allowed and thus disposed of. Consequently, pending application(s), if any, also stands closed.

CHIEF JUSTICE (ACTING)

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