

HIGH COURT OF TRIPURA

_A_G_A_R_T_A_L_A_

Review Pet. No.12 of 2023

The State of Tripura and Others.

.....Petitioners

_V_E_R_S_U_S_

Smt Anya Monti Molsom @ Aina Monti Molsom

.....Respondent

For Petitioner(s) : Mr. D. Sarma, Addl. G.A.
For Respondent(s) : Mr. None.

**HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR. JUSTICE ARINDAM LODH**

_O_R_D_E_R_

15/02/2023

Heard Mr. D. Sarma, learned Addl. G.A. appearing for the review petitioner. None appears for the respondents.

This review petition has been filed under Chapter-X of the Gauhati High Court Rules read with Section-114 of the CPC for review of order dated 07.11.2022 passed in WA. No.58 of 2022 passed by this Court.

The petitioners have prayed for following reliefs:

A. Admitting this review & call for records.

B. Review the order dated 07.11.2022 passed in WA. No.58 of 2022 and further be pleased to modify it to the extent of setting aside the order.

C. Pass order staying the order dated 07.11.2022 passed in WA. No.58 of 2022.

D. Grant such other and further relief as this Hon'ble Court may deem fit and proper in the circumstances of the present case be granted."

The facts in brief are that the petitioner has challenged the decision of the Sub-Divisional Forest Officer contained in the communication dated 09.09.2021 and urged for directing the respondents to grant permit to the

petitioner to extract trees standing on her land as per the joint survey report dated 01.11.2016. It has been further asserted by the petitioner that the petitioner got allotment of the land pertaining to khatian No.78 of Moujha-Haripur, Plot No.218 measuring 6.300 acre along with three other persons. The petitioner had applied for tree registration certificate for purpose of extraction on 09.08.2016.

In order to ascertain the field-level status, a joint survey was carried out by the Forest Range Officer, Amarpur range and Tehasildar of the concerned Tehasil and they have reported that on the land as referred above, there are 622 mature trees including teak, gamar, karai, tetul, bhahera etc. The petitioner has claimed that the status of land is jote land by way of allotment and in support of that claim she has produced khatian No.78 of Mouja Haripur.

Thereafter, the petitioner has applied for permit for extraction of trees from the said land. By the letter dated 09.09.2021 in Sub-Divisional Forest Officer, Amarpur Forest Sub- Division has communicated the decision to the effect that in terms of the order dated 23.04.2005, no TRC/extraction order from the forest land allotted after 25.10.1980 can be issued. But, the respondents have seriously resisted such prayer by stating that as per the Forest (Conservation) Act, 1980, that no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing that any reserved forest, or any portion thereof, shall cease to be the reserved forest.

The land that has been allotted to the petitioner by the Collector squarely falls within the protected forest area. As such, the allotment was absolutely erroneous. Since, the status of the land prior to allotment was protected forest and allotment was made after 1980 i.e. during 1983 vide order No.11675/1983, thus allotment made was illegal as allotment cannot be made without prior approval of GoI as per provision of FCA, 1980. The Hon'ble Single Bench of this Court after hearing allowed the writ petition. Thereafter,

the present petitioners have filed WA No.58 of 2022 and subsequently, the same was dismissed. Hence, the present review petition.

In view of above and after hearing the learned Addl. G.A. appearing for the respondents, this Court is of the opinion that the present review petition has been filed for review of the judgment passed by this Court on two grounds viz. before passing this judgment, there was judgment decided in favour of the review petitioners and the same could not be placed before this Court. Later, there is another judgment of the Hon'ble Apex Court which is also decided after passing the judgment in this matter and that has also been passed in favour of the review petitioners. In view of the same, the present review petition is filed seeking review of the earlier order passed by this Court.

It is needless to observe that the scope of review is very limited, mere none consideration of the judgment or in view of the subsequent development in deciding the judgment, cannot be a ground for review. In view of same, the present review petition stands dismissed giving liberty to the petitioners to avail remedy in accordance with law.

In terms of above, the review petition stands dismissed. As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUDGE

CHIEF JUSTICE (ACTING)

A. Ghosh