

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) NO.319 OF 2022**

1) **Rualchhingi Lushai @ Lalthanmawii Lushai**

W/o Late L.T. Zama Lushai.

2) **Zovi Lushai,**

W/o- late H. Malswama.

3) **Lalnunthara Lushai,**

S/o- Late H. Malswama.

4) **Lalchhanchhuaha Lushai,**

S/o- Late H. Malswama,

All are resident of Vanghmun, P.O. & P.S. Vanghmun,
Sub-Division- Kanchanpur, Distt-North Tripura.

..... **Petitioner(s)**

Vs.

1) **The State of Tripura.**

(To be represented by the Secretary, Revenue Department,
Government of Tripura). New Secretariat Building, New
Capital Complex, Kunjaban, P.S. New Capital Complex,
Agartala, West Tripura, Pin-799010.

2) **The Secretary,**

Department of Agriculture, Govt. of Tripura,
New Secretariat Building, New Capital Complex,
Kunjaban, P.S.- New Capital Complex,
Agartala, West Tripura, Pin-799010.

3) **The Director, Department of Agriculture,**

Govt. of Tripura, Krishi Bhavan, Agartala, West Tripura,
PIN-799001.

4) **The Deputy Director of Agriculture,**

Govt. of Tripura, Jawharnagar, Dhalai Tripura.

5) **The Superintendent of Agriculture,**

Govt. of Tripura, Chawmanu Agri Sub-Division,
Chailengta, Dhalai Tripura.

6) **The Superintendent of Horticulture,**
Govt. of Tripura, Manu Horti Sub-Division, Distt- Dhalai
Tripura.

7) **The District Magistrate & Collector, Govt of
Tripura,** O/o the DM & Collector, Dhalai District, Ambassa.

8) **The Chief Executive Officer,**
TTAADC, Khumlung, Jirania Tripura.

9) **The Principal Officer of Agriculture,**
TTAADC Khumlung.

..... **Respondent(s)**

For the Petitioner(s) : Mr. P. Roy Barman, Sr. Advocate.
Mr. S. Bhattacharjee, Advocate.

For the Respondent(s) : Mr. D.C. Saha, Advocate.

Date of hearing and delivery of
Judgment & Order : 09.01.2023.

Whether fit for reporting : NO.

HON'BLE THE CHIEF JUSTICE(ACTING)

JUDGMENT AND ORDER(ORAL)

The brief fact of this instant writ petition is that the petitioners herein have prayed for direction upon the respondents who are in illegal and unauthorized occupation of the land measuring 3.00 acres belonging to the petitioners. According to the petitioners herein, the respondents should either vacate the land measuring 3.00 acres, recorded under Plot No.99/327, Khatian No.38, Mouja-Nalkata, Pargana-Birchandranagar, Revenue Circle-Manu, Sub Division-

Longtharai Valley, District-Dhalai after paying rent for use/occupation of the said land or to acquire the said land through due process of law by paying adequate compensation to the petitioners herein.

2) Mr. P. Roy Barman, learned Sr. counsel assisted by Mr. S. Bhattacharjee, learned counsel appearing for the petitioners submits that respondents who are the State and its instrumentalities cannot take the plea of adverse possession against the petitioners' constitutional rights to enjoy their property. The respondents have infringed upon the right of property guaranteed to the petitioners under Article 300A of the Constitution of India. The respondents took over possession of the land of the petitioners without any sanction of law.

To support his argument, learned Sr. counsel relied upon *Para-15* of the Hon'ble Apex Court Judgment reported in **2022 LiveLaw(SC)347** titled as **Sukh Dutt Ratra and anr Vs. State of Himachal Pradesh and ors** dated **04.06.2022** which is reproduced here-in-under:-

"15. When it comes to the subject of private property, this court has upheld the high threshold of legality that must be met, to dispossess an individual of their property, and even more so when done by the State. In Bishandas v. State of Punjab¹⁹ this court rejected the contention that the petitioners in the case were trespassers

and could be removed by an executive order, and instead concluded that the executive action taken by the State and its officers, was destructive of the basic principle of the rule of law. This court, in another case - [State of Uttar Pradesh and Ors. v. Dharmender Prasad Singh and Ors.](#)²⁰, held:

"A lessor, with the best of title, has no right to resume possession extra-judicially by use of force, from a lessee, even after the expiry or earlier termination of the lease by forfeiture or otherwise. The use of the expression 're-entry' in the lease-deed does not authorise extra-judicial methods to resume possession. Under law, the possession of a lessee, even after the expiry or its earlier termination is juridical possession and forcible dispossession is prohibited; a lessee cannot be dispossessed otherwise than in due course of law. In the present case, the fact that the lessor is the State does not place it in any higher or better position. On the contrary, it is under an additional inhibition stemming from the requirement that all actions of Government and Governmental authorities should have a 'legal pedigree'".

3) Mr. D.C. Saha, learned counsel appears on behalf of the respondents.

4) After hearing learned counsel appearing for the petitioner and perusing the evidence on record, this present writ petition is disposed of directing the respondents Nos.2 & 3 herein to consider the case of the petitioners and pass an appropriate order within a period of 1(one) month from the date of receipt of the copy of this order. The petitioners are at liberty to place any relevant records and also the judgments of the law of land which are there in support of his contention. Till

the decision is taken, status quo is to be maintained by both sides.

CHIEF JUSTICE (ACTING)

suhanjit

