

HIGH COURT OF TRIPURA

_A_G_A_R_T_A_L_A_

WP(C) No.370 of 2023

Dipu Sinha

.....Petitioner

_V_E_R_S_U_S_

The State of Tripura & 4 Others

.....Respondents

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

Mr. K. Nath, Advocate.

For Respondent(s) : Mr. D. Sarma, Addl. G.A.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

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12/06/2023

Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. K. Nath, learned counsel appearing for the petitioner. Also heard Mr. D. Sarma, learned Addl. G.A. appearing for the respondents.

This petition has been filed under Article-226 of the Constitution of India for quashing and cancelling the notice dated 26.05.2023 issued by the Estate Officer, Sub-Divisional Magistrate, Kailashahar, Unakoti District.

The petitioner has prayed for the following reliefs:

- i. Issue rule upon the respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby quashing and cancelling the notice dated 26.05.2023, issued by the Estate Officer, Sub-Divisional Magistrate, Kailashahar, Unakoti District.
- ii. Call for the records pertaining to the instant writ petition from the custody of the respondents.
- iii. Make the rules absolute after hearing the parties."

The case of the petitioner is that the petitioner is residing over the concerned land measuring 0.06 acres since his birth and for the last 35 years, the petitioner is running his business under the name and style of "SISIR FABRICATION WORKS" over the concerned land. All on a sudden, the

impugned notice dated 26.05.2023 has been served upon the petitioner by the SDM, Kailashahar purportedly exercising the powers of Estate Office under the provisions of the Tripura Public Premises (Eviction of Unauthorized Occupants) Act, 1982.

By the said notice, the petitioner has been ordered to convert the concerned land measuring 0.06 acres in original shape within 7 days from the date of receipt of the said notice. But, astonishingly, no opportunity of personal hearing and to show cause has been given to the petitioner in utter violation of the mandate of Sections-4 and 5 of The Tripura Public Premises (Eviction of Unauthorized Occupants) Act, 1982, which provides for giving reasonable opportunity to the concerned person to defend his case instead, the impugned notice dated 26.05.2023 has been issued.

Hence, the present petition has been filed before this Court by the petitioner for redress.

It reveals from the records that the petitioner being aggrieved by the order passed by the respondent has preferred an appeal before the appellant authority under the Tripura Public Premises (Eviction of Unauthorized Occupants) Act, 1982 and the same is pending and no relief has been granted. Though, the petitioner is residing in the said premises for 35 years and running his fabrication business.

Mr. D. Sarma, learned Addl. G.A. appearing for the respondents on instruction has submitted that the present writ petition is not maintainable in the eye of law and prayed to dismiss the same. It has been further submitted that the petitioner earlier approached before the appellate authority and has initiated parallel proceedings. He has further contended that the contention made by the petitioner that he has been residing in the same premises for the last 35 years and running his fabrication business, is completely incorrect. Being an unauthorized occupant, Construction and running fabrication business is violative under the statute.

In view of above submissions made by both sides, this Court is of the considered view that it is not for this Court to enter into the disputed

Accordingly, without expressing any opinion on merits, the present writ petition stands disposed of directing the appellate authority to consider the case of the petitioner as expeditiously as possible preferably within a period of two months from today. Balance of convenience is in favour of the petitioner since, for the three decades he is there in the possession of the subject land and all of a sudden he cannot be dispossessed and asked to demolish the property and handover the same to the respondents. In view of the same, till the appeal is decided by the appellate authority, the petitioner shall not be dispossessed and the property shall not be demolished.

In the result, the present petition stands disposed of. As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUDGE

A. Ghosh

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