

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
Review Pet. No.53 of 2022

The State of Tripura and Another.

.....Petitioners

_V_E_R_S_U_S_

Fortune Agro Plantation Ltd Others.

.....Respondents

For Petitioner(s)	:	Mr. S. S. Dey, Advocate General. Ms. Ayantika Chakraborty, Advocate.
For Respondent(s)	:	Mr. S. M. Chakraborty, Sr. Advocate. Mrs. P. Chakraborty, Advocate.

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

09/02/2023

Heard Mr. S. S. Dey, learned Advocate General assisted by Ms. A. Chakraborty, learned counsel appearing for the review petitioner. Also heard S. M. Chakraborty learned senior counsel assisted by Mrs. P. Chakraborty, learned counsel appearing for the respondents.

This review petition has been filed under Articles-215 & 226 of the Constitution of India read with the provisions of Order-XLVII Rule-1 of the Code of Civil Procedure, 1908 praying for a review of the common judgment and order dated 09.02.2021 passed in WA. No.40 of 2016, WA No.18 of 2018, WP(C) No.370 of 2013, WP(C) No.369 of 2013, WP(C) No.366 of 2013, WP(C) No.332 of 2013 and WP(C) No.616 of 2015 so far as it concerns WA No.40 of 2016.

The petitioners have prayed for following reliefs:

“In the premises aforesaid it is therefore humbly prayed that Your Lordships may be graciously pleased to review the common judgment and order dated 09.02.2021 so far it relates to WA.No.40 of 2016 by way

of dismissing the said WA.No.18 of 2018 by way of upholding the withdrawal of the exemption order 23.08.1975.”

The facts in brief are that the present review petition has been filed by the review petitioners being aggrieved by the common judgment and order dated 09.02.2021 passed in WA. No.40 of 2016, WA No.18 of 2018, WP(C) No.370 of 2013, WP(C) No.369 of 2013, WP(C) No.366 of 2013, WP(C) No.332 of 2013 and WP(C) No.616 of 2015. The writ appellants (the opposite parties herein) were granted right to retain land for the purpose of tea plantation by operation of statutory exemption of land measuring 2100.00 acres vide order dated 5th August, 1975 under Section-136(1) and Section-178 of TLR&LR Act. However, a report received from the District Magistrate and Collector, which reveals that an area of land measuring 35.08acres and 257.27 acres were utilized for rubber plantation and teak plantation respectively, which vitiates the ultimate purpose for which, exemption from the ceiling limit was granted.

By common judgment and order dated 09.02.2021 on similar facts and circumstances, this Court has dismissed the prayer made in WA No.40 of 2016, but allowed the prayers made in rest of the proceedings including WP(C) No.616 of 2015 notwithstanding the similar facts and provisions. Hence, the present review petition has been filed by the present petitioner.

In view of the above, this Court draws an inference that the writ petitioners have obtained exemption for tea estate presently by violating the exemption proceedings. Thus, for the reasons indicted above, this Court is not inclined to appreciate the arguments of the writ petitioners and also to grant any relief in favour of the writ petitioners.

Accordingly, the review petition stands allowed. The order of retention and exemption dated 23.08.1975 which has been withdrawn by the respondents and which is impugned in the connected writ petition is upheld. The common judgment and order dated 09.02.2021 passed by this Court at

paragraph-21 relating to WA. No.40 of 2016 is reviewed and accordingly, set aside. The writ appeal being WA.No.18 of 2018 stands dismissed upholding the withdrawal orders issued by the government.

However, in view of the submissions made by Mr. S. M. Chakraborty, learned senior counsel appearing for the respondents that they have not suppressed any facts and the application with regard to seeking exemption under Section-178 of the TLR&LR Act was made in the year 1962 and thereafter, the exemption has been granted by the Government during the year 1975. Since the petitioners herein, have not way-gated the exemption, the withdrawal cannot be permitted. This Court is not inclined to appreciate the arguments made by Mr. S. M. Chakraborty, learned senior counsel appearing for the respondents with regard to the ignorance of the application made and exemption proceedings granted.

However, the main object of granting the exemption under Section-178 of TLR&LR Act is to promote the Tea Estate and in the event, if the petitioner as on today, if he is still promoting the Tea Estate manufacturing and cultivation and so, it is always open for him to approach the concerned authority with all necessary documents and evidence and on such receipt of the same, they shall consider it in accordance with law.

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

JUDGE

CHIEF JUSTICE (ACTING)