

**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.97/2022

Kallol Debbarma and others

----Petitioner(s)

Versus

The State of Tripura and others

-----Respondent(s)

For Petitioner(s)	: Mr. P. Roy Barman, Sr. Advocate, Mr. Kawsik Nath, Advocate.
For Respondent(s)	: Mr. Debalay Bhattacharjee, G.A., Mr. S. Lodh, Advocate, Mr. Arijit Bhaumik, Advocate, Ms. Ayesha Saha, Advocate.

HON'BLE THE CHIEF JUSTICE (ACTING)

Order

12/01/2023

Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. Kawsik Nath, learned counsel appearing for the petitioners. Also heard Mr. Debalay Bhattacharjee, learned Government Advocate appearing for the respondents-State and Mr. Arijit Bhaumik, learned counsel appearing for the respondent-Agartala Municipal Corporation.

2. This revision petition under Article 227 of the Constitution of India is directed against (i) the Order dated 21.05.2022 passed by the Principal Secretary, Revenue Department, Government of Tripura in case

No.06/Appeal/Revenue/Secy/2021; (ii) the notice dated 03.03.2022 issued by the Assistant Municipal Commissioner, Central Zone, Agartala Municipal Corporation, and (iii) the order dated 25.03.2021 passed by the D.M. & Collector, West Tripura , in Revenue Case No.441/19.

3. In the present revision petition, petitioners have prayed for the following reliefs:

- "(i) Admit the instant Petition.
- (ii) Call for records.
- (iii) Issue Rule upon the Respondents.
- (iv) Hear the instant Petition and after hearing, allow the instant petition preferred by the Petitioners by quashing & cancelling the impugned Order, dated, 21.05.2022, passed by the Principal Secretary, Revenue Department, Govt. of Tripura. (*Annexure-12*).
- (v) Pass an Order quashing and cancelling the impugned notice, dated, 03.03.2022, has been issued by the Asstt. Municipal Commissioner, Central Zone, AMC. (*Annexure-11*).
- (vi) Pass an Order quashing & cancelling the impugned Order, dated, 25.03.2021, passed by the DM & Collector, West Tripura. (*Annexure-6*).
- (vii) Pass an ad interim stay order, staying the operation of the impugned Order, dated, 21.05.2022, passed by the Principal Secretary, Revenue Department, Govt. of Tripura, till disposal of the instant petition.

(viii) Pass an ad interim stay order, staying the operation of the impugned notice, dated, 03.03.2022, has been issued by the Asstt. Municipal Commissioner, Central Zone, AMC, till disposal of the instant petition.

(ix) Pass an ad interim stay order, staying the operation of the impugned Order, dated, 25.03.2021, passed by the DM & Collector, West Tripura, till disposal of the instant petition.

AND

Pass any other or further order(s) as the Hon'ble High Court may deem fit and proper in this regard for fair ends of justice."

4. Brief facts of the case are that in the instant revision petition, the petitioners have challenged the impugned notice dated, 03.03.2022 issued by the Assistant Municipal Commissioner, Central Zone, Agartala Municipal Corporation, purportedly without any application of mind. The petitioners have also challenged the order dated, 25.03.2021 passed by the District Magistrate & Collector, West Tripura, in Revenue Case No.441/19 under Section 11(3) of the TLR & LR Act, 1960. The petitioners have further challenged the Order dated 21.05.2022 passed by the Principal Secretary, Revenue Department, Government of Tripura in Case No.06/Appeal/ Revenue/Secy/2021 under Section 93(1) of the TLR & LR Act, 1960. The petitioners have challenged the aforementioned impugned Notice and Orders and sought for stay of the said notice and orders during

the pendency of instant petition. It is necessary to mention here that by changing the nature and character of the ejmali path of the petitioners behind their back without giving them any notice, the respondents have recorded the said plot as 'public road'. The respondents failed to consider the inquiry report submitted by Tehsildar, West T.K., to the Deputy Collector & Magistrate, Agartala Revenue Circle wherein it has been recommended that 0.150 acre of land attracted in R.S. Plot No.1136 (corresponding to CS plot No.5131/P) from Khatian No.1/57 may be recorded in favour of the petitioners. Hence, the instant petition.

5. Mr. P. Roy Barman, learned senior counsel appearing on behalf of the petitioner, contends that the petitioners purchased R.S. plot No.1136 corresponding to C.S. plot No.5131 from the legal heirs of deceased Harendra Kishore Debbarma who was the original owner of the land in question. Petitioners stated that the suit land was a jote land and earlier used the land as private pathway. But the Settlement authority behind the back of the petitioners has illegally recorded the land as a Government Khas land under Khatian No.1/57. The petitioners submitted prayer before the Revenue Authority claiming 0.0150 acre as jote land and to record the same in their name under Section 11(3) of the TLR & LR Act, 1960. But the District Magistrate & Collector, West Tripura vide order dated 25.03.2021 declined

to entertain such prayer of the petitioner observing that the said suit land is being used as road for ordinary people, which being found illegal and arbitrary was challenged by the petitioners. He also contends that meanwhile one Pranab Kr. Das, a neighbour of the petitioners, filed a complaint before the Agartala Municipal Corporation alleging that the petitioners had created an unauthorized obstruction by installing an iron gate over the said pathway whereupon the Municipal Corporation sent an eviction notice to the petitioners. He further contends that the order of the D.M. & Collector was also challenged by the petitioners by filing an appeal before the appellate authority and subsequently, the Principal Secretary of the Revenue Department being the appellate authority dismissed the appeal affirming the order passed by the D.M. & Collector. Aggrieved by the orders passed by the competent authorities, petitioners have approached this Court by filing this revision petition and prays for quashing the impugned orders and notice mentioned hereinabove.

6. On the other hand, Mr. Arijit Bhowmik, learned counsel appearing for the respondent-Corporation, has contended that against the two impugned orders, the revision petition filed under Article 227 of the Constitution is not maintainable and the petitioners have effective alternative remedy to challenge the same before a competent court.

7. I.A. No.01 of 2023 has been filed seeking impleadment of the applicant as one of the respondents on the ground that the petitioner in the present impleadment application is a necessary party all through before the authorities and upon his complaint the petitioner has obstructed the public road and further the implead petitioner is also having right and interest upon the property. The said legal proceedings have been taken up before the respondent authorities and prayed to allow the impleadment application and to give an opportunity of arguments.

8. It is seen from record that the petitioner under Article 227 of the Constitution of India has challenged the proceedings dated 21.05.2022 of the Principal Secretary, Revenue Department, Government of Tripura which specifically deals with the issue relating to the right, title and interest of the petitioner and the un-official respondent(s) who are before the authorities relating to a property dispute. Under Article 227 the respondent is neither a subordinate judiciary nor a Tribunal to take the cognizance of the matter and to exercise the supervisory jurisdiction. The notice dated 03.03.2022 passed by the Assistant Municipal Commissioner which is also under challenge cannot be dealt with under Article 227 as stated *supra* that the Municipal Corporation is not a subordinate judiciary nor a Tribunal.

9. Insofar as the order dated 25.03.2021 passed by the District Magistrate & Collector, this Court has no hesitation to say that this matter also cannot be considered under Article 227 for the reasons indicated above.

10. Viewed from any angle on perusing the record and after hearing both sides, this Court is of the opinion that several disputed question of facts are involved with regard to the subject property and it has a checkered history which cannot be dealt under Article 227 and the petitioner has appropriate effective remedy before the court of law. In view of the litigation which is pending before the authorities between the petitioner and the un-official respondent(s) for several years and time and again the petitioner was also having proper legal assistance, it cannot be concluded that the petitioner is not aware of the scope of Article 227 of the Constitution of India. Hence, this Court feels that the present petition is only abuse of the process of the Court and the instant revision petition is liable to be dismissed with cost.

11. In view of the above, the present Civil Revision Petition stands dismissed with cost of Rs.10,000/- (rupees ten thousand) only payable to the account of the Tripura High Court Employees' Association within a period of 1(one) month from today. Copy of the order be supplied to the President of the Tripura High Court Employees' Association.

12. In view of the dismissal of the present revision petition, the connected impleadment application [I.A. No.01 of 2023] needs no adjudication and the same is, accordingly, dismissed.

Pending application(s), if any, also stands disposed of.

CHIEF JUSTICE (ACTING)

Dipesh

