

HIGH COURT OF TRIPURA
AGARTALA

WP(C) 31 of 2023

The Silkote Tea Company Ltd.,
A company incorporated under the companies Act,
Having its Registered Office at 166, Jessor Road, Kolkata-700055.

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

VERSUS

- 1. The State of Tripura,**
Represented by the Chief Secretary,
Government of Tripura, Secretariat, Capital complex
P.O.- Kunjaban, Agartala, West Tripura.
- 2. Secretary to the Government of Tripura,**
Revenue Department, Secretariat, Capital Complex,
P.O.- Kunjaban, Agartala, West Tripura.
- 3. The District Magistrate and Collector,**
P.O. Gaurnagar, Kailashahar, District- Unakoti, Tripura.
- 4. Sub-Divisional Magistrate,**
Kailasahar, District- Unakoti, Tripura.

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

For Petitioner(s)	:	Mr. DK Biswas, Sr. Advocate Mr. GK Nama, Advocate
For Respondent(s)	:	Mr. SS Dey, Advocate General. Mr. Kohinoor N. Bhattacharya, G.A. Ms. Ayantika Chakraborty, Advocate.
Date of hearing	:	08.07.2024.
Date of pronouncement of Judgment & Order	:	12.07.2024.
Whether fit for reporting	:	Yes

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order

Heard Mr. DK Biswas, learned senior counsel assisted by Mr. GK Nama, learned counsel appearing for the petitioner. Also heard Mr. SS Dey, learned Advocate General assisted by Ms. A. Chakraborty, learned counsel for the State respondents. Mr. Khohinoor N. Bhattacharya, learned G.A. is also present on behalf of the State.

[2] The instant writ petition is filed under Article 226 of the Constitution of India for issuance of a writ of certiorari or similar order and also for a writ of mandamus or direction in respect of the order dated 05.12.2020 passed by the Revenue Secretary in Revenue case No.07/Rev/Secy/2020 and the memorandum dated 19.02.2021 issued by respondent No.4(SDM).

[3] The case of the petitioner in brief is that the petitioner claimed that he is the owner of Tea Garden named "Hiracherra Tea Estate" in Unakoti District. According to the petitioner the tea garden comprises of 682.94 acre land used for tea cultivation and connected other purposes. It is contended by the petitioner that the petitioner company is registered in the year 1917 under the Companies Act, having its registered office in Kolkata. It is further contended that the petitioner company is a vibrant company with more than 2,300 members (share holders).

[4] While the matter stood thus, Government of Tripura issued Gazette notification vide No.F.39(93)-Rev/62 dated 22nd March, 1963 in notifying that with regard to all estates situated in the then Kailashahar Sub-division and under the then Puranrajbari Police Station of Belonia Sub-Division , all rights, title and interest of every intermediary in

such estates shall vest in the Government free from all encumbrance w.e.f 15th April, 1963. In pursuance thereof, the petitioner submitted an application in the year 1963 under section 178(1) and 136 of the Tripura Land Revenue and Land Reforms Act, 1960 (TLR & LR Act for short) for exemption and retention of the Tea Garden Land. Thereafter, the Revenue authority passed the "retention" order dated 15.05.1980 under section 136 of the Act, for land measuring 682.94 acres in accordance with law. By initiating revenue proceeding vide 07/REV/Secy/2020 dated 05.12.2020, direction was issued to record the subject-land in question as Government 'Khas' land. In consequent thereto, on 19.02.2021, SDM, Kailashahar, Unakoti, Tripura (respondent herein) by issuing a memorandum dated 19.02.2021 converted a portion of land belonged to the petitioner company into Govt. khas land and informed the petitioner company not to undertake any kind of activities without prior permission of the competent authority in Revenue Department.

[5] On earlier occasion, the petitioner company approached this Court by filing a writ petition being WP(C) 274 of 2022 but, the same was withdrawn by the petitioner as per order dated 05.12.2022 of this Court with a liberty to file afresh. Thereafter, the petitioner have preferred this present writ petition seeking following reliefs:

"i. Issue rule asking the Respondents as to why the order dated 5-12-2020 passed by the Revenue Secretary (Respondent No.2) in case No. 07/Rev/Secy/2020 and the Memorandum dated 19-2-2021 issued by the respondent No.4 should not be declared illegal, malafide and without authority, and thereafter to quash both the said order and the Memorandum;

ii. Issue rule directing to take all possible steps to restore the position of the Tea Garden as it was on 5-12-2020;

iii. Cost of the proceeding;

iv. Pass order directing the respondents to maintain status quo in respect of the land mentioned in the impugned order.

v. Pass any other writ or order/orders as may be deemed fit and proper for ends of justice....."

[6] Mr. DK Biswas, learned senior counsel appearing for the petitioner submits that as per law, order of "exemption" under section 178(1) of the Act is granted in respect of land in excess of ceiling limit. On the other hand, Ceiling limit/excess land is determined in accordance with the provisions contained in section 164A of the Act. He, therefore, submits that it is clear that before determining the ceiling limit, order of exemption under section 178(1) of the Act cannot be granted. Order dated 15.05.1980 shows that ceiling proceeding had not been initiated in respect of petitioner's Tea Garden Land. Till date no proceeding has been initiated for determination of ceiling limit, yet the impugned order has been passed ignoring statutory provision. It is further contended that under the law, Government can take only the surplus land if found available beyond the ceiling limit.

[7] He further contends that ignoring the above mentioned statutory provisions the Respondent No.2 (Revenue Secretary) most illegally, arbitrarily passed the order dated 05.12.2020 in revenue proceeding No.07/Rev/Secy/2020 directing to record the land owned by the petitioner as Government "Khas" land. He contends that petitioner is an intermediary and raiyat under TLR & LR Act and the land is under exemption. He, therefore, urges this Court to set aside the impugned order dated 05.12.2020 and consequential memorandum dated 19.02.2021 issued by the respondent(s).

[8] Mr. SS Dey, learned Advocate General for the State respondents submits that as per the gazette notification vide No. F.39(93)-REV/62 published on 22.03.1963, in the Tripura Gazette, the estate in question, situated within the then Kailasahar Sub Division now the Unakoti District was already vested in the Government of Tripura free from all encumbrances. Consequently, the entire land claimed by the writ petitioner falling within Unakoti District as of date, in any view of the matter is a Govt. Khas land.

[9] He further submits that there is no averment in the writ petition with regard to that gazette notification and the same is unchallenged. It is further contended that the petitioner have concealed the real facts and made untrue statements. Initially, the petitioner company vide application dated 12.09.1963 applied for the exemption from the operation of Section 164 of the TLR & LR Act, 1960 and also prayed for retention of the ceiling surplus land. However, the same was rejected and no retention order was issued in his favour and further vide order dated 04.12.1975, the Revenue Department, Government of Tripura, directed the Collector to take over the land after observing all formalities.

[10] He further contends that the petitioner company again made a prayer to review the aforesaid order dated 04.12.1975 by an application dated 13.10.1977 and finally, order dated 15.05.1980 are passed.

[11] It is further contended that at the time of passing the said order, he was directed to file a separate application under Section 178 for exemption. But, no such application was filed by the petitioner company. The revenue proceeding vide 07/REV/Secy/2020 was instituted not to withdraw any exemption order. As per the report of the DM & Collector Unakoti District, it was found that whole tea garden (except plot no.514 & 547 with an area of 78.7) was degraded for a long time and no tea plantation activities was carried on by the petitioner company. Therefore, in the light of 1963 gazette, the 682.94 acres (683 acres approx) stands in the name of Government of Tripura as the petitioner company are not owner of the land and no documents are filed in support of their argument. He prayed to dismiss the writ petition.

[12] Heard learned counsel for the parties. Perused the record.

[13] For the purpose of reference, some relevant provisions laid down in Sections 99, 133, 134, 136, 137, 164 & 178(4) of the Tripura Land Revenue and Land Reforms Act, 1960 (*for short* TLR & LR Act) are extracted hereunder:

“99. Rights of raiyats.”-(1) For the removal of doubts, it is hereby declared that subject to the other provisions of this Act,-

(a) the rights of a raiyat in his land shall be permanent, heritable and transferable;

(b) the raiyat shall be entitled by himself, his servants, under-raiyats, agents or other representatives to erect farm buildings, construct wells or tanks or make other improvements thereon for the better cultivation of the land or its convenient or profitable use;

(c) the raiyat is entitled to plant trees on his land, to enjoy the products thereof and to fell, utilise or dispose of the timber of any trees on his land.

(2) Nothing in sub-section (1) shall entitle a raiyat to use his land to the detriment of any adjoining land which is not his or in contravention of the provisions of any other law for the time being in force applicable to such lands.*****

133. Definitions.- In this Part,---

(a) “estate” means lands included under one entry in any of the general registers of revenue-paying and revenue-free lands and includes—

(i) revenue-free lands not entered in any register, and

(ii) a part of or a share in an estate;

(b) “homestead” means a dwelling house together with any courtyard, compound, garden, or out-house and includes any out-buildings used for purposes connected with agriculture and any family graveyard, library, office, guest-house, grain store, latrines, boundary walls, tanks, wells or places of worship appertaining to such dwelling house;

(c) “intermediary” means a person who holds in an estate the right, title or interest of a talukdar and includes---

(i) a person who holds land either revenue-free or at a concessional rate, and

(ii) a tenure holder;

(d) “tenant” means a person who cultivates or holds the land of an intermediary under an agreement, express or implied, on condition of paying therefore rent in cash or in kind or delivering a share of the produce and includes a person who cultivates or holds land of and intermediary under the system generally known as “*bhag*”, “*adhi*” or “*barga*”; and the term “sub-tenant” shall be construed accordingly;

(e) “tenure holder” means a person who has acquired from an intermediary the right to hold lands for the purpose of collecting rents or bringing them under cultivation by establishing tenants thereon*****

134. Notification vesting estates in the State.-(1) As soon as may be after the commencement of this Act, the [State Government] may, by notification in the Official Gazette, declare that, with effect from the date specified in the notification (herein-after referred to as the vesting date), all estates situated in any area or areas and all rights, title and interest of every intermediary in such estates shall vest in the Government free from all encumbrances.

(2) Every notification under sub-section (1) shall also be published in such other manner as may be prescribed.

(3) The publication of notification in the manner provided in sub-section (1) and (2) shall be conclusive evidence of the notice of declaration to the intermediaries whose interests are affected by such notification*****

136. Rights of intermediary to certain lands.- (1) Notwithstanding anything contained in sections 134 and 135, an intermediary shall, subject to the provisions of sub-section (2) be entitled to retain with effect from the vesting date,--

(a) homesteads, buildings and structures together with the appurtenant thereto in the possession of the intermediary other than buildings vested in the Government under section 135;

(b) lands under the personal cultivation of the intermediary;

(c) lands in which permanent rights have not already accrued to a tenant under any custom, agreement or law and which have been leased by an intermediary who, both at the commencement of the lease and on the vesting date, was a person under disability;

(d) lands held by the intermediary as mortgagor which are subject to usufructuary mortgage and are under the personal cultivation of the mortgage;

(e) lands comprised in orchards or used for the purpose of live-stock breeding, poultry, farming or dairy farming, which are in the occupation of the intermediary;

(f) so much of the lands comprised in a tea garden, mill, factory or workshop as in the opinion of the State Government is required for such tea garden, mill, factory or workshop.

(2) An intermediary who is entitled to retain possession of any land under sub-section (1) shall hold such land directly under the Government from the vesting date as a raiyat thereof [or as a non-agricultural tenant thereof, as the case may be] and be liable to pay therefor land revenue at full rate applicable to similar lands in the locality*****

137. Collector to take charge of estates, etc., vested in the Government.- (1) The Collector shall take charge of estates and interests of intermediaries which vest in the Government under section 135.

(2) For the purpose aforesaid, the Collector may, by written order served in the prescribe manner, require any intermediary or other person in possession of any such estate or interest to give up such possession by a date to be specified in the order (which shall not be earlier than sixty days from the date of service of the order) to deliver by that date any documents, registers, or records, connected with the management of such estate or interest which are in his custody to furnish a statement in the prescribed form in respect of such estate or interest.

(3) The Collector or any other officer authorized by him in this behalf may take such steps or use such force as may be necessary to enforce compliance with the order and may also enter any building or place for the purpose of taking possession of the documents, registers or records referred to in sub-section (2),

(4) An intermediary shall be entitled to make inspection of any documents, registers or records which have been delivered to or taken possession of by the collector, to make notes there from or to have certified copies thereof granted to him. No fees shall be charged for making inspection or for making notes, but fees may be charged, according to the prescribed scale, for the grant of certified copies.

(5) Nothing in this section shall be deemed to authorise the Collector to take possession of--

(a) any land or of any right of an intermediary therein, which may be retained by the intermediary under section 136, or

(b) any religious institution or any building connected therewith.*****

164. Ceiling on holdings.- On and from the 24th January, 1971 no person shall, whether as a raiyat or as an underraiyat or as a mortgage in possession or otherwise or partly in one capacity and partly in another, hold in the aggregate any land in excess of the ceiling limit applicable to him under section 164A.

[164A. Ceiling limit.- (1) The ceiling limit shall be---

- (a) in the case of an adult unmarried person, two standard hectares;
- (b) in the case of a person who is the sole surviving member of a family, two standard hectares;
- (c) in the case of a person having a family consisting of two or more but not more than five members, four standard hectares;
- (d) in the case of a person having a family consisting of more than five members, four standard hectares plus 0.60 standard hectare for each member in excess of five so, however, that the total ceiling limit for such a person shall not in any case exceed 7.20 standard hectares.

(2) Notwithstanding anything contained in sub-section (1), where in the family of a person there are more members than one, owing land, the ceiling limit for that person together with the ceiling limit of all the members of the family, shall not in any case exceed---

- (a) where the member of members of such family does not exceed five, four standard hectares;
- (b) where such member exceeds five, four standard hectares plus 0.60 standard hectares for each member in excess of five so, however, that the aggregate of the ceiling limit shall not in any case exceed 7.20 standard hectares.

(3) For the purpose of sub-section (2), all the land owned individually by the members of the family or jointly by some or all of the members of the family shall be deemed to be owned by the members in the family.

(4) In determining the extent of land owned by a person having a family or the sole surviving member of a family or an adult unmarried person, the share of such person or sole surviving member or such adult unmarried person, as the case may be, in the lands owned by a cooperative society, company, co-operative farming society, a Hindu undivided family or a firm shall be taken into account.

Explanation.—For the purposes of this sub-section, the share of a person having a family or the sole surviving member of a family or an adult unmarried person in the lands owned by a co-operative society, company, co-operative farming society, a Hindu undivided family or a farm shall be deemed to be the extent of land which could be allotted to him, had such lands divided or partitioned, as the case may be.

(5) The lands owned by a trust or endowment, other than a public nature, shall be deemed to be lands owned by the beneficiaries under the trust or endowment and each such beneficiary shall be deemed to be a person holding land under this Act to the extent of the share of his beneficial interest in the said trust or endowment.

(6) The ceiling limit for a co-operative society, company, co-operative farming society, a Hindu undivided family or a firm, as the case may be, shall not exceed the sum total of the ceiling limits of each member of such co-operative society, company, co-operative farming society, a Hindu undivided family or each partner of such firm.

Explanation.—For the purpose of determining the ceiling limit of each member referred to in this sub-section, any land held separately by a person who is a member of a cooperative society, company, co-operative farming society or a Hindu undivided family or a partner of a firm shall be deducted from the ceiling limit referred to in sub-sections (1) to (5) so that the sum total of the area of land held by such person whether as such member or partner or individually or as a member of a family may not in any case exceed the ceiling limit applicable to him under these sub-sections.*****

178. Power to exempt, etc.-*****(4) Where any land, in respect of which exemption has been granted under subsection (1) or sub-section (2) or sub-section (3), ceases to be used, or is not within the prescribed time used, for the purpose for which exemption had been

granted, the [State Government] may, after giving the persons affected an opportunity of being heard, withdraw such exemption..... ”

[14] During the course of argument, learned senior counsel Mr. DK Biswas relied on a book titled as ‘A Study Of The Land System of Tripura’ directed by one J.N. Das, Law Research Institute, Eastern Region, Gauhati High Court, Guwahati. The contents of the said book as referred by Mr. Biswas, learned senior counsel for the petitioner is extracted as under:

“.....CHAPTER V

ABOLITION OF INTERMEDIARIES

Who are intermediaries

Abolition of intermediaries had to be the first step in the process of implementation of the new land law of Tripura, namely, the Tripura Land Revenue and Land Reforms Act of 1960, because the raiyat who was the central figure in the new land-law, could not be brought into direct contact with the State without removing the pervasive intermediary wall that stood between them. In Tripura, during the ex-Ruler's regime, almost all lands were held by Talukdars under the State, and the Tuluk- dars engaged tenants to cultivate their lands. Talukdars, we have seen, were of three categories, namely, Kayemi, Taskhichi and Nishkar. Taken together, their total number came to 29,215.

'Intermediary' has been defined as "a person who holds in an estate the right, title or interest of talukdar" and includes a 'tenure holder who is, in practice, a Dar- Talukdar. Thus according to the provisions of the Act, all the three classes of Talukdars mentioned above and the class of Dar-Talukdar come under purview of the definition of "intermediary". So, abolition of intermediaries involved abolition of all these classes.

Peculiar position of tea-gardens

Now, a peculiar situation arose in respect of the tea- gardens, most of which held lands under Taskhichi lease. In view of holding this type of lease, the tea-garden- owners were called Talukdars, and being Talukdars, they were, by definition, intermediaries. So their rights had to be acquired; and these were in fact acquired under section 134 of the TLR & LR Act 1960.

General notification for acquisition

In this connection, it may be noted that the noti- fication for acquisition of intermediary rights under section 134 is not required to mention the names of the estates and their owners. The notification is required simply to declare that, with effect from a specified date, all estates situated in any area and all rights, title and interest of every intermediary in such estates shall vest in the Government. So when such a general notification was issued in a sub-division, all Taluks including tea-estates, vested in the State Government. *****

As Talukdars tea-gardens vested in Government

The issue of vesting notification in Tripura put the tea- estates in an awkward situation. If really the tea-estates had been taken over, then, apart from the problem of huge compensation, the problem of management would have been colossal. It could not have been the intention of the Government to acquire the tea- estates as such, but the definition of 'intermediary' naturally led to this situation. The tea-gardens had to get rid of the

designation of "Talukdar" which, in Tripura, was identical with 'intermediary'. They must no longer remain intermediaries but must become raiyats, and as raiyats they could keep their gardens surrendering only the surplus. So the Government took recourse to the "retention" clause in Section 136 (f) under which an intermediary was entitled to retain so much of the lands comprised in a tea-garden as in the opinion of the State Government was required for such tea-garden."

The above book is not an Act or Rules or any gazette notification. It is only a research study report by a third party and on the strength of the same, this matter cannot be adjudicated as it has no statutory recognition.

[15] The petitioner, Silkote Tea Co. Ltd. claim as the owner of Tea Garden named 'Hiracherra Tea Estate' and according to them, it is 105 year old company registered in the year 1917. The petitioner-company have contended that they are in possession of tea-estate and are cultivating tea since its inception. The Tripura Land Revenue and Land Reforms Act, 1960 (in short TLR & LR Act) came into force and on perusal of record, it is seen that on 22.03.1963, a gazette notification vide No. F.39(93)-REV/62 was published in the Tripura Gazette, which is extracted hereunder for appreciation of fact:

"....In exercise of powers conferred by sub-section (1) of section 134 of the Tripura Land Revenue and Land Reforms Act, 1960 (43 of 1960) the Administrator is pleased to declare that with effect from the 15th April, 1963 all estates situated in Kailashahar Sub-division and under Puranrajbari Police Station of Belonia Sub Division and all rights, title and interest of every intermediary in such estates shall vest in the Government free from all encumbrance....."

[16] In support of the contention of the petitioner, the petitioner has not placed on record that Silkote Tea Co. Ltd. is the lawful owner of the subject-land in question which is about 726.03 acres (however, the present dispute is only with regard to 682.94 acres and remaining 43.09 acres were allotted by the government to the landless families much prior to 1980, which is evident from the record).

[17] Record reveals that on 04.12.1975, the Revenue Department, Government of Tripura, directed the Collector, North Tripura District to take action under Section 137 of

the TLR & LR Act to take over the possession of the land after observing all formalities. The relevant contents of the said order is quoted herein-below:

“.....ORDER

The representative of the Hirachhara Tea Estate also called Silkot Tea Estate run by the Silkot Tea Co. Ltd. did not turn up even after repeated summons for appearance. Sarvashri R. Sankaranarayanan, Director of Land Records & Settlement, T.N. Chakraborty, Assistant Director of Surveys & Land Records, A.L. Majumder, Asst. Survey Officer, Kailasahar, J.P. Gupta, Chief Labour Officer, M.K. Sinha, Labour Officer and A. Mukherjee, Industrial Promotion Officer represented the Government side.

2. Shri Gupta of the Tea Association of India and Shri Indra Kumar Roy of Tripura Cha Majdur Union also appeared on being requested for to present themselves at the time of hearing.

3. The Manager of the Tea Estate and the Managing Director of the Company were summoned 5 (five) times and inspite of this, they did not appear on any of the fixed dates of hearing nor did they file any application. This indicates that the Management of the Tea Garden are not interested in obtaining retention order under section 136(1) (f). *****

8. I am, therefore, inclined to think that no retention order need be issued in favour of the intermediary of the Garden. The Collector, North District may take action u/s 137 to take over possession of the land after observing connected formalities.

Orders may issue accordingly.”

[18] It is also seen from record that at many places the subject-land is referred to as Hiracherra Tea Estate and in some places Silkote Tea Company Ltd. It is also observed from record that for Silkote Tea Co. Ltd. its Directors Mrs. Rumena Rahman and K.S. Dhindsa sent a letter on 13.10.1977 addressed to the Revenue Commissioner, Government of Tripura indicating that they have taken over the control over the garden and the possession from the previous Directors but, nowhere in the entire record, the petitioner have established that Silkote Tea Company Ltd./ the petitioner herein is the owner of the subject-land measuring 682.94 acres (approximately 683 acres). The petitioner have not pleaded in the affidavit and not placed any document on the strength of which the petitioner can claim ownership and also possession.

[19] In the above letter dated 13.10.1977, it is also indicated that previous owner could not run the tea-estate because of paucity of funds. It was further indicated that they

would conduct a survey of tea-estate and would apply proper plans in a proper form as per the procedure. In the said letter, it was prayed to review the order dated 04.12.1975 in the matter of retention under Section 136(1)(f) and petition Section 178(1) of TLR & LR Act, 1960 in respect of Hiracherra Tea-Estate.

[20] The order passed on 04.12.1975 by the Commissioner of Revenue and Secretary, Government of Tripura is the one denying the request of Hiracherra Tea-Estate seeking retention. The petitioner have not placed on record nor contended in the affidavit with regard to initiation of any legal proceedings challenging the order dated 04.12.1975.

[21] Therefore, it has to be reasonably presumed that the order passed by the Commissioner of Revenue etc. & Secretary dated 04.12.1975 attained finality. Insofar as the letter dated 13.10.1977 addressed by the Directors of Silkote Tea Co. Ltd. to the Revenue Commissioner with a prayer to review the order dated 04.12.1975 is concerned, it has no legal weightage nor recognized under the statute.

[22] The petitioner has not challenged as cited supra the gazette notification dated 22.03.1963 and also the order dated 04.12.1975 of the Commissioner of Revenue etc. & Secretary to Govt. of Tripura. Nowhere in the pleadings, the petitioner could establish his ownership right upon the 682.94 acres of land and also his locus standi. No documents are filed in support of their claim. Nowhere in the pleadings, the petitioner made any attempt to say that the petitioner is an intermediary or raiyati under TLR & LR Act. Except reiterating the sections of the Act and discussing and interpreting the same, there is no specific assertion made by the petitioner about his title & *locus standi*.

[23] It reveals from record that on 03.10.2020, under the proceeding vide No. 07/Rev/Secy/2020, it was observed by the Secretary, Revenue Department that a report had

been received from the DM & Collector, Unakoti District informing that the Tea Estate was not functioning. Thereafter, on 05.12.2020, the following order was passed by the respondent Revenue Department:

“.....Muktipada Paul, Dy Collector is present on behalf of the DM & Collector of Unakoti. Advocate Gautam Nama is present on behalf of the Silkote Tea Company Ltd. (Hirachara Tea Estate).

Inspite of giving repeated opportunity to Silkote Tea Company Ltd the self proclaimed representative Md. Mossabbir Ali could not prove his locus standi in this case.

1. It is clear that the Silkote Tea Company Ltd has been "strike off" status as per ROC website with last AGM dated 27/09/2016
2. The DIN number of the self proclaimed representative is also inactive.
3. The power of attorney given was dated 26/05/2014 and since the company status is strike off with last AGM dated 27/09/2016 as recorded in the website of ROC, it would not be valid.

In the last 2(two) hearings dated 17.10.2020 & 07.11.2020 also he was given ample opportunity to prove why this Court should consider him as the appropriate party to represent Silkote Tea Company Ltd, but he has made no attempts in this direction. In their latest prayer, they have submitted one fresh power of attorney dated 04/12/2020 in favour Mossabbir Ali, the self proclaimed representative, by one MD, Mokarram Khan, the Managing Director signed as Sunshine Tea Processing Company Ltd. However, there is a seal of Silkote Tea Company Ltd. also embossed. Mossabbir Ali has also submitted his payment for activation of DIN No, and Case No. 1129/2020 filed with the ROC but no further details have been submitted in writing. In his previously submitted written statement there were no details regarding the locus standi to represent Sikote Tea Company. But the Company itself is inactive as per status “strike off” in ROC website. “Strike off” status indicates the following circumstances.

- When a company has failed to commence its business within one year of its incorporation.
- When a company is not actively carrying on any business or operation for a period of two immediately preceding financial years and has not made any application within such period for obtaining the status of a dormant company”

On being enquired, if the engaged counsel of Silkote Tea Company, Shri Gautam Nama could submit the case details of case no 1129/2020. that are filed with NCLT either verbally or in writing, he asked for at least 7 days. This time limit is unreasonable to this Court. It appears that party is just using delay tactics.

Also, as per report of the DM & Collector Unakoti District, at present whole tea garden (except plot no. 514 & 547 with an area of 78.07 acres) is degraded for long and no plantation activities except two plots where some tea plantation activities is reported. It is a serious breach of the terms and conditions of Retention Order passed in favour of the Concerned Tea Estate Company. Moreover, an amount of Rs 10,38,962/- as matching share of CPF remained unrealised as the company itself does not exist physically. No initiatives were taken up to issue weekly Ration Cards from the side of the Company.

The said tea garden is now in a closure condition and not running well since 15 years and there is total failure of all garden activities. The labourers of the said tea garden have been ignored and they have to suffer a lot as no labour welfare activities are taken up nor has any tea garden/grower commitment has been followed, minimum wages are not not

given, weekly Ration Card are also not issued. Garden condition is deteriorating. Many of the tea garden workers are on verge of starvation.

From the examination of all facts and circumstances, and after detailed scrutiny of the records available, it is revealed that 604.87 acres of land is lying unutilized since long time from tea plantation by the recorded Tea Estate owners to whom retention order was favoured by the State Government. Thus, the very purpose of allowing tea estate owners to retain land in excess of ceiling limits has been defeated and even the remaining 78.07 acre where tea garden is exists are also not maintained by the management of the company as the company itself does not exist physically.

This Court is of the considered opinion that since the owners are not using the said land for the purpose for which it was allowed to be retain and have instead left it unutilized, there is no reason to continue with retention of the said land any further. Hence, the retention order vide Revenue Department No. 28(Tea Estate) of 1962-63, U/s 136(i)(f) & 178(1) to (3) of the TLR & LR Act 1960 Dated 15/05/1980, is hereby withdrawn in respect of the land measuring 604.87 acres of Mouja Hiracherra, Dhaliar Kandi, Irani and Srinathpur in Silkote Tea Company (Hirachera Tea Estate, kailashaahar). This land shall accordingly be resumed by the State Government. And the remaining land measuring 78.07 acres in RS plot no-514 (33.09 ascre) &547(44.98 acre) of mouja Hirachera shall remain in the name of The Silkote Tea Company but the company is liable to prove by 31.01.2021 regarding the activates of the company and clarify its legal status Based on this, the decision to retain the remaining land will be considered.

The DM & Collector, Unakoti District is directed for correction of the aforesaid land as 'khas' in favour of the State Government and also for correction of all relevant records accordingly.

With the above order, this case is hereby disposed off.

Informed all concerned.....”

[24] Thereafter, on 19.02.2021, SDM, Kailashahar, Unakoti, Tripura (respondent herein) by issuing a memorandum converted a portion of land belonged to the petitioner company into Govt. khas land and informed the petitioner company not to undertake any kind of activities without prior permission of the competent authority in Revenue Department. The impugned memorandum dated 19.02.2021, reads as under:

“MEMORANDUM

In reference to the verdict of the Hon'ble Court of Revenue Secretary, Govt of Tripura vide case no. 07/Rev/Secy/2020 U/S 178(4) of TLR & LR Act, 1960, a total of 604.87 acres of land belonging to Silkote Tea Company Ltd. has been converted into Govt khas land except 78.07 acres of land bearing RS plot no. 514(33.09 acres) and 547(44.98 acres) of Hiracherra Mouja under Tilagaon TK.

It is to bring to the notice of the management of Silkote Tea Company Ltd. (locally known as Hiracherra Cha Bagan) not to undertake any kind of activities without prior permission of the competent authority in Revenue Department. Undertaking any kind of unauthorized activities on the plots in question will be treated as illegal trespass and trespassers will be liable to be prosecuted.....”

[25] It is also seen from record that wayback in the year 1963 on behalf of Hiracherra Tea-Estate, a letter was addressed to the Administrator, Tripura Administration praying for exemption from the operation of Sec.164 of Tripura Land Revenue and Land Reforms Act, 1960 under Section 178(1) of the said Act stating that Hiracherra Tea-Estate is in possession of land. In the said letter also, it was not stated that they are the owners of the said land.

[26] On perusal of records and upon hearing the submissions made at the Bar, this Court is of the view that the petitioner company herein neither have established their locus in terms of claiming ownership nor have shown that they are in possession since 1963. They have been unable to make out their case to prove that they are an 'intermediary' or 'raiyat' or they have any rights to be claimed as an intermediary to certain lands. Since the earlier proceedings of the Government such as, the Gazette Notification dated 22.03.1963 and order dated 04.12.1975 of the Commissioner of Revenue etc. & Secretary to the Government of Tripura have attained finality and relief claimed therein for retaining and restoring was rejected thus, the proceedings dated 05.12.2020 and the Memorandum dated 19.02.2021 which are under challenge in this writ petition also follow on the same footing.

[27] At this juncture, it is not open for the petitioner to challenge the present consequential proceedings and seek a relief for allowing the retention/restoration. It is seen from the affidavit filed by the petitioner that the gazette notification dated 22.03.1963 and the order of the Revenue Department dated 04.12.1975 are not filed and there is no whisper in the averment. The said documents are filed by the Government. Thus, this Court draws inference against the conduct of the petitioner as they have suppressed the facts and have not approached the Court with clean hands. This writ petition is misconceived.

[28] As discussed above, this Court is not inclined to consider the case of the petitioner for restoring the land as per year 1963 *ante*.

[29] In view of the above discussion, this Court is of the considered opinion that the impugned order dated 05.12.2020 and subsequent, memorandum dated 19.02.2021 passed by the respondents be upheld. Resultantly, the present writ petition filed by the petitioner is liable to be dismissed.

Accordingly, the present writ petition stands dismissed. As a sequel, miscellaneous application(s), pending if any, shall also stand closed.

JUDGE

Sabyasachi G.

SABYASACHI
GHOSH

Digitally signed by SABYASACHI
GHOSH
Date: 2024.07.20 15:28:21 +05'30'

