

**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.13 of 2023

Md. Mansur Ali, S/o Late Wahid Ali, resident of Village-Fulbarikandi, P.O. Noorpur, P.S. – Kailashahar, Unakoti District.

..... Petitioner(s).

Versus

1. The State of Tripura, to be represented by the Principal Secretary, Revenue Department, Government of Tripura, New Secretariat Building, New Capital Complex, Agartala, West Tripura, Pin-799010.
2. The District Magistrate & Collector, Unakoti District, Kailashahar.
3. The Principal Secretary, Revenue, (Appellate Authority, under TLR & LR Act), Agartala.

..... Respondent(s).

For Petitioner(s) : Mr. P Roy Barman, Sr. Advocate,
Ms. S. Deb Barman, Advocate,
Mr. D. Paul, Advocate.

For Respondent(s) : Mr. M. Debbarma, Addl. G.A.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

ORDER

04/12//2024

Heard Mr. P Roy Barman, learned senior counsel assisted by Mr.

D. Paul, learned counsel for the petitioner and Mr. M. Debbarma, learned additional Government Advocate for the respondents-State.

2. The impugned order dated 21.01.2023 passed in case No.48/Appeal/REV/P.Secy/2022 under Section 93(1)(c) of the TLR & LR Act, 1960 by the Principal Secretary, Revenue Department, Government of Tripura by which the contentions of the petitioner herein to record the names of the legal heirs of deceased Wahid Ali as possessors in column No.16 against R.S. Plot No.1884 recorded in Khatian No.1/7 of Mouza Ichapur under Kailashahar Tehsil on the ground that his father's name 'Wahid Ali'

was reflected as unauthorized possessor against CS(old) Plot No.1618 in column 24 of old Khatian No.429 which corresponding to RS Plot No.1884 in khas Kahtian No.1/7 has been rejected. The impugned order dated 21.01.2023 reads as under:

“Md Manabar Ali, S/o Wahid Ali and Brother of Monsur Ali is present on behalf of the petitioner Monsur Ali. Advocate Manisha Chakrabarti, Standing Counsel of Revenue Department is present on behalf of the State. Sri Pintu Das, DC, O/o the DM & Collector, Unakoti District is present on behalf of DM & Collector, Unakoti District.

Heard both the parties.

The appeal petition is filed against the judgement dated 28/09/2022 in Revenue Case No. Rev/Revision/91/2022 U/s 95 of the TLR & LR Act, 1960 of the Collector, Unakoti District.

Contention of the petitioners is to record the names of the legal heirs of deceased Wahid Ali as possessors in column No. 16 against R.S Plot No. 1884 recorded in the khatian No. 1/7 of Mouza Ichapur, under Kailashahar Tehsil, on the ground that his father's name "Wahid Ali" was reflected as unauthorised possessor against CS(old) plot no. 1618 in column 24 of old khatian no. 429 which correspond to RS Plot no. 1884 in khas khatian no. 1/7.

In his Order dated 28/09/2022 in Rev. Case No. Rev/Revsion/91/2022 U/s 95 of the TLR & LR Act, 1960, the Collector, Unakoti District rejected the prayer of the petitioner stating that the existing entry in column No. 16 of aforesaid khatian will not be changed.

The matter was scrutinised. On examination of the khatian No. 1/7 of mouza Ichapur of Kailashahar T.K, it is found that in column No. 16 against R.S Plot No. 1884 it is written as "the land reserved for public purpose".

The physical possession report of the SDM, Kailashahar and Deputy Collector & Magistrate, Kailashahar reveal that it is found that the suit land is lying vacant and at present not in possession of the appellant.

It is also pertinent to mention here that as per Memorandum No.F.(5)196-DLRS/DILRMP/2019/12037-104 dated 22/10/2019, any recording of possession as new entries in the remarks coloum or any other coloum of Record of Rights under any provision of TLR &LR Act, 1960 is barred.

Further, there is no dispute that petitioner has no right and title over the suit land and the petitioner has also not claimed for the same.

In view of the above position, the Court does not find any reason to interfere with the order of the Collector, Unakoti District and this appeal is hereby rejected.

The Case is hereby disposed of on merit.”

3. The petitioner being aggrieved has approached this Court in the present revision petition under Article 227 of the Constitution of India. Petitioner contended that the physical possession report of the SDM, Kailashar vide letter dated 25.08.2022 recommend deletion of the comment ‘reserved for general public’ under column No.16 of Khatian No.1/7 of RS Plot No.1884 which the appellate authority failed to consider. Petitioner further contended that possession of the predecessor in interest of Wahid Ali in RS Plot No.1884 has been affirmed by the judgment and decree passed by learned District Judge, Unakoti District, Kailashahar in Title Appeal No.02/2021. The learned Revenue Department while dismissing the appeal under Section 93 of the TLR and LR Act, 1960 refer to a memorandum dated 22.10.2019 and holding that possession of new entries in the remarks column or any other column of record of rights under provision of TLR & LR Act, 1960 is barred. The appellate authority failed to consider that memorandum cannot override the specific provisions of TLR & LR Act, 1960. The approach of the learned appellate authority i.e. Principal Secretary, Revenue Department cause miscarriage of justice by not allowing the petitioner’s application for correction of comment made under column No.16 of Khatian No.1/7 in respect to Hal Plot No.1884 in exercise of jurisdiction under Section 93 of the TLR & LR Act, 1960.

4. During course of the proceedings of this case learned additional Government Advocate for the respondents-State was asked to come fully prepared on the provisions under which entry as an unauthorized occupier in the records of rights is permissible under the TLR & LR Act, 1960 after

conclusion of the survey settlement exercise at the behest of an aggrieved person. Learned additional Government Advocate has, thereafter, placed the compilation of various orders, memorandums and instructions issued on revision of record of rights in two volumes. Though learned counsel for the petitioner and respondents have during course of the proceedings sought to place various orders/memorandums/instructions issued from time to time in respect of revision of record of rights but these materials were not placed before the learned Revenue Department while deciding the appeal. Therefore, it appears that the impugned order has been passed only guided by a memorandum dated 22.10.2019 as regards entry in the remarks column under the provisions of TLR & LR Act, 1960. It is also pointed out by learned counsel for the petitioner that the record of rights i.e. the Khatian prescribed in T.R.L.R. Form-7 as per Rule 53(1) contains a column No.16 with a heading 'Remarks' in which the petitioner's name ought to have been recorded as his father's name 'Wahid Ali' was reflected as unauthorized possessor against CS (old) Plot No.1618 in column No.24 of old Khatian No.429 which corresponded to RS Plot No.1884 in khas Khatian No.1/7. The learned Revenue Department has erroneously failed to appreciate this aspect of the matter and dismissed the appeal. Therefore, the matter may be remanded for reconsideration.

5. Learned additional Government Advocate for the State has made strenuous efforts to support the impugned order on the ground that the prayer of the petitioner for recording of his possession as new entry in the remarks column has rightly been refused since the same is reserved for public purpose in RS Plot No.1884.

6. On consideration of the rival submissions of the parties, this Court is of the considered view that the matter requires to be remitted for reconsideration to the appellate authority in view of the contentions raised by the parties herein and also the fact that the various provisions of the TLR & LR Act, 1960 and TLR & LR Rules, Tripura, 1961 framed thereunder as also the orders/memorandums/instructions issued in this regard for revision of record of rights have neither been placed before the appellate authority nor are reflected in the impugned order.

7. As such, the impugned order is set aside. The matter is remitted to appellate authority i.e. Principal Secretary, Revenue Department to decide the appeal afresh in accordance with law. Needless to say petitioner as well as the respondents are at liberty to place all relevant materials and circulars/orders/memorandums issued from time to time by the State in connection with the revision of record of rights under the TLR & LR Act, 1960 and TLR & LR Rules, Tripura, 1961 framed thereunder. Parties are expected to cooperate in the proceedings without taking unnecessary adjournments.

8. Accordingly, the instant petition is disposed of. Pending application(s), if any, shall also stand disposed of. Let it be made clear that this Court has not made any comments on the merits of the case.

(APARESH KUMAR SINGH), CJ