

**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.74/2024

Sri Narayan Chakraborty, S/O. Late Jatindra Mohan Chakraborty, resident of South Badharghat, P.S.:-Amtali, District-West Tripura.

..... Petitioner(s).

V E R S U S

1. The State of Tripura, Represented by the Principal Secretary, Revenue Department, Government of Tripura, New Capital Complex, Agartala, Tripura, 799010.

2. The Principal Secretary, Revenue Department, Government of Tripura, Civil Secretariat, New Capital Complex, Agartala, Tripura, 799010.

3. The District Magistrate & Collector, West Tripura, Agartala, PIN-799001.

4. The Sub-Divisional Magistrate, Sadar, Agartala, West Tripura, PIN-799001.

.....Respondent(s).

For Petitioner(s) : Mr. Kundan Pandey, Advocate.

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

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

23/08/2024

Heard Mr. Kundan Pandey, learned counsel for the petitioner and Mr. Dipankar Sarma, learned Addl. Government Advocate appearing for the respondents-State.

2. The Revenue Secretary-cum-appellate authority under Section 93 of the TLR & LR Act, 1960 has by the impugned order dated 30.09.2023 passed in case No.37/App/Rev/P.Secy/2022 relying upon the physical possession enquiry report of the suit land submitted by the D.M. & Collector, West Tripura District, directed correction of the area of the Revenue Survey Plot Nos.36338, 36339, 36339/Part and 36344 in Khatian No.11799 of Mouja-Badharghat. The operative part of the order is extracted hereunder:

"Heard the appellant Sri Chakraborty, expressing his acceptance to the findings of the said physical possession enquiry report of the suit land submitted by the DM & Collector, West Tripura District.

Hence, as per physical possession enquiry report of the suit land submitted by the DM & Collector, West Tripura District, the appellant's Khatian No.11799 of mouza Badharghat be corrected in the following manner:

Khatian No.	RS Plot No.	Class of land	Corrected Area in RoR
11799	36338	Nal	0.0800 acre
	36339	Viti(Tilla)	0.0320 acre
	36339/Part	Path(Viti)	0.0040 acre
	36344	Bastu Tilla	0.1640 acre
Total area			0.2800 acre

i) The area of RS Plot No.36338 in Khatian No.11799 of mouza Badharghat be corrected as 0.0800 acre in place of 0.0900 acre.

ii) The area of RS Plot No.36339 in Khatian No.11799 of mouza Badharghat be corrected as 0.0320 acre in place of 0.0400 acre.

iii) A new plot for an area measuring 0.0040 acre be carved out from RS Plot No.36339, classification of the new plot will be 'Path (Viti)' and will be recorded in the appellant's Khatian No.11799 of mouza Badharghat.

iv) The area of RS Plot No.36344 in Khatian No.11799 of mouza Badharghat be corrected as 0.1640 acre in place of 0.1500 acre.

The DM & Collector, West Tripura District is hereby directed to correct the record as per the above order.

The case is hereby disposed of on merit."

Petitioner has assailed it in the present revision petition though after a considerable delay on 13.05.2024.

3. Learned counsel for the petitioner submits that during course of the enquiry before the District Magistrate also, there was physical inspection report by Retd. Amin (Annexure-3) and the last inspection report upon which the learned Revenue Secretary has relied are varying in themselves. Petitioner did not get an opportunity to object to them though a finding had been recorded in the impugned order that the appellant had expressed his acceptance to the findings of the said physical enquiry report of the suit land submitted by the D.M. & Collector, West Tripura District. On that day, counsel for the appellant/ petitioner was not appearing and the petitioner had himself appeared. It is submitted that the description of the area of the said RS Plot Nos. in

Khatian No.11799 had not been rightly corrected. Had the petitioner got an opportunity to object to the physical possession enquiry report submitted by the D.M. & Collector, West Tripura, the picture would have been clear. Therefore, the matter may be remanded to the learned Revenue Secretary to hear the petitioner after giving him an opportunity to object to the enquiry report and take a fresh decision in accordance with law.

4. Learned counsel for the respondents-State Mr. Dipankar Sarma, however, submits that the Revenue Secretary has relied upon the physical possession enquiry report of the D.M. & Collector, West Tripura District which was accepted by the appellant/petitioner. However, if the petitioner wants to dispute the physical possession enquiry report of the D.M. & Collector, West Tripura District on the basis of earlier physical possession enquiry reports conducted during pendency of the original proceedings before the D.M. & Collector, West Tripura by the sub-ordinate Revenue authorities, these disputed facts can only be agitated in a properly constituted suit before the competent Court of civil jurisdiction.

5. Having heard learned counsel for the parties and after going through the impugned order as well, it is clear that the present proceedings relate to correction of the description of area of certain R.S. Plots in Khatian No.11799 of Mouja-Badharghat at the instance of the petitioner on the plea that these plots were gifted to him by his father. However, if the petitioner disputes the physical possession enquiry report of the D.M. & Collector, West Tripura on which reliance has been placed by the learned Revenue Secretary at the appellate stage and in view of the enquiry report of the Retd. Amin (Annexure-

3) undertaken during pendency of the proceedings before the District Magistrate & Collector, West Tripura, this disputed question of fact cannot be adjudicated upon in a revenue proceeding. Therefore, the correct remedy for the petitioner would be to approach the competent Court of civil jurisdiction where such disputed questions of fact based on different enquiry reports and evidence to be adduced by the parties can be duly adjudicated upon. Therefore, this Court does not find reason to interfere in the impugned order for the above reason. However, petitioner is at liberty to approach the competent Court of civil jurisdiction for a declaration as to the correct area and description of the 4(four) R.S. Plot nos. in Khatian No.11799 of Mouja-Badharghat which he claims to have been gifted to him by his father and also to question the findings of the learned Revenue Secretary passed in the impugned order dated 30.09.2023 as is permissible in law.

6. The instant revision petition stands disposed of accordingly.
Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ

Pulak

SIDDHARTHA LODH

Digitally signed by SIDDHARTHA

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