

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 398 of 2024

Smt. Bimala Debbarma

W/o- Sri Binod Debbarma,

R/o- Pushkarbari,

PO + PS – Bishramganj, District- Sepahijala Tripura

Aged about – 49 years, PIN Code- 799103

---Petitioner(s)

Versus

- 1. The Law Secretary, Government of Tripura,**
New Secretariat Building, Kunjaban,
PS – New Capital Complex, Agartala, West Tripura, PIN – 799010
- 2. The Secretary, Revenue Department, Government of Tripura, New Secretariat Building,**
Kunjaban, PS- New Capital Complex, Agartala, West Tripura, PIN – 799010.
- 3. The District Magistrate & Collector, Sepahijala District,**
O/o The DM & Collector, Sepahijala District, Bishramganj, Tripura
- 4. The Land Acquisition Collector (Addl. District Magistrate & Collector),**
Sepahijala District, O/o The DM & Collector, Sepahijala District, Bishramganj, Tripura.

---Respondent(s)

For Appellant(s)	:	Mr. Ratan Datta, Advocate. Mr. A.T. Pal, Advocate.
For Respondent(s)	:	Ms. Riya Chakraborty, Advocate.
Date of hearing and date of judgment and order	:	26.06.2024
Whether fit for reporting	:	Yes.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order (Oral)

Heard Mr. Ratan Datta, learned counsel for the petitioner also heard Ms. Riya Chakraborty, learned counsel for the respondents.

[2] This is a petition under Article 226 of the Constitution of India for seeking the following relief(s):

- i. Issue notice upon the respondents*
- ii. Call for the records*
- iii. Issue notice calling upon the respondents to show cause as to why the compensation amounting to Rs.29,06,400/- (Rupees Twenty Nine*

Lakhs Six Thousand and four Hundred only) along with statutory interest shall not be disbursed infavour of the petitioner.

And

And after hearing the parties be pleased to make the rule absolute.

And/Or

Pass any other order/orders as deemed fit and proper.

[3] The case of the petitioner is that the State and the High Court of Tripura had decided to set up court building and residential quarters for the District & Sessions Judge Court at Sepahijala District and accordingly government khas land of measuring 4.32 acres pertaining to plot no. 799/p and 800 under Khatian No 1/117 & 1/118 of Mouja Bastali TK Amtali along with other lands were acquired. The said land was khas land in the occupation of the petitioner for long period. They were allotted in the name of the Law Department by evicting the petitioner without there being any acquisition proceeding and without making any payment of compensation for 800 numbers of matured rubber trees raised by the petitioner and also portion of constructed structures were affected to which the petitioner is entitled for compensation.

[4] Further, it is pointed out from the record that there is proceeding of the District Collector dated 19.10.2020 recommending for Rs.29,06,400/- to be paid as compensation for the rubber trees. Since the said compensation was not paid, the present writ petition said to be filed.

[5] The counsel for the petitioner, Mr. Ratan Datta while reiterating the contention made in the writ affidavit has relied upon Sections 11 and 140 of the Tripura Land Revenue And Land Reforms Act, 1960 (in short TLR & LR, Act 1960) and Section 80 of the Right to Fair compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. He further relied upon the judgment of the apex court in ***Rame Gowda (D) by Lrs vs. M V varadappa Naidu (D) by Lrs & Anr*** reported in ***AIR 2004 SC 4609*** wherein the apex court has observed as follows.

“iv) that one of the usual tests to determine the quality of settled possession, in the case of culturable land, would be whether or not the trespasser, after having taken possession, had grown any crop. If the crop had been grown by trespasser, then even the true owner has no right to destroy the crop grown by the trespasser and take forcible possession.”

[6] Thus, the petitioner prayed to allow the writ petition by awarding the compensation of Rs.2906400/- with interest.

[7] The counsel for the respondents contended that the petitioner is not entitled for claiming any compensation and he is an unauthorized occupant. Therefore, the writ petition be dismissed.

[8] Heard both sides.

[9] Admittedly, as seen from the correspondence made by the respondent, it is presumed that the petitioner who is an occupant and there were trees which were damaged and on the strength of the inquiry report dated 02.07.2020 addressed by SDM, Bishalgarh, Sepahijala District to the Senior Deputy Collector, Office of the District Magistrate and Collector, Sepahijala District, Bishalgarh and also Amtali Tehsildar report dated 09.09.2020 addressed to the SDM, Bishalgarh Subdivision, Sepahijala and the letter dated 19.10.2020 by the District Magistrate Collector, Sepahijala District, Bishramganj addressed to the Deputy Secretary, Law Department, Government of Tripura for making payment of Rs.32,76,966/- in favour of the petitioner-Bimala Debbarma wife of Binod Debbarma Rs.29,06,400/- for damage of rubber trees of 800 nos and in favour of the Abdul Ouahed son of Chand Miah for damage of rubber tress of 102 nos. Rs.3,70,566/-

[10] Thereafter, by letter dated 11.08.2021 the Land Acquisition Collector, Additional District Magistrate Sepahijala addressed to the Under Secretary, Revenue Department, Government of Tripura seeking clarification as to the claim of Bimala Debbarma being an unauthorized occupant of government land is only asking compensation for the trees but not land. A further reminder was also made on 13.05.2022. The petitioner also got issued a legal notice dated 12.02.2024 addressing the Law

Secretary, Land Acquisition Collector, Secretary Revenue Department and District Magistrate and Collector, Sepahijala seeking to disburse the compensation amount of 29,06,400/- with 15% interest as per Section 80 of the Right to Fair compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

[11] On 15.02.2024, the DLR & Deputy Secretary, Law, Government of Tripura issued a reply to the above legal notice dated 12.02.2024 and categorically answered that as opined by the Revenue Department that there is no provision in the Allotment rules to provide any compensation to the unauthorized occupier of government land and also that Finance Department has not given any concurrence to the proposal of the compensation to the unauthorized occupier of the government land.

[12] While replying to the said legal notice, a copy of the reply has also been sent to (i) District and Sessions Judge Sepahijala, (ii) Principal Secretary, Revenue Department and (iii) District Magistrate and Collector, Sepahijala.

[13] As the matter proceeds, on 07.03.2024, the District Magistrate and Collector, Sepahijala addressed a letter to the Joint Secretary, Law that the claim of Bimala Debbarma for Rs.29,06,400/- and Abdul Ouahed for Rs.3,70,566/- totaling 32,76,966/- is pending and the response from the Government is still awaited and the copy of the same is marked to the Advocate Ratan Datta, and also to the Deputy Secretary Revenue.

[14] On perusal of the record, this court notices at running page 25 filed along with the writ petition an office note of the respondent has been filed. The said note contains no heading, no signature. When this court has inquired as to how this said office note has been brought to the file along with the writ paper since the affidavit did not contain the source of the collecting the same, to which the counsel for the petitioner has no answer. This is not for the first time. This court has experienced such office note or confidential correspondences which are not marked to the party are filed before this court

in the writ petition. And on several occasions, as pointed out, how a common man can have access to the government departmental file and to procure confidential document.

[15] The District Magistrate and Collector, Sepahijala District on 19.10.2020 as stated (supra) has recommended for granting of payment of compensation for Rs.29,06,400/- in favour of Bimala Debbarma, the petitioner herein. In pursuance of the said recommendation, the legal notice dated 15.02.2024 has been addressed. The request of the petitioner has been rejected & accordingly reply has been sent on 15.02.2024 to legal notice. But surprisingly without considering the said rejection, once again the District Magistrate and Collector, Sepahijala on 07.03.2024 addressed to the Joint Secretary, Law seeking to do the needful and the response is still awaited.

[16] The letter dated 19.10.2020 and 07.03.2024 appear to this court as erroneous. As the letter dated 15.02.2024 has already been communicated the opinion of the government and a copy has been already marked to the District Magistrate and Collector, Sepahijala there is no reason as to why again the District Magistrate & Collector issued the letter dated 07.03.2024. This observation is pointed out by this court since huge amount are involved in payment of compensation.

[17] Now coming to the appreciation of the case by deciding it on the legal acumen the relevant Sections 11 and 140 of the TLR & LR Act, 1960 as stated as under:

Section 11. Title of Government to lands, etc.-(1) All lands, public roads, lanes and paths and bridges, ditches, dikes, and fences on or beside the same, the beds of rivers, streams, nallas, lakes and tanks, and all canals and water courses, and all standing and flowing water, and all rights in or over the same or appertaining thereto, which are not the property of any person, are and are hereby declared to be the property of the Government.

(2) Unless it is otherwise expressly provided in the terms of a grant made by the Government, the right to mines, quarries, minerals and mineral products including mineral oil, natural gas and petroleum shall vest in the Government, and it shall have all the powers necessary for the proper enjoyment of such rights.

(3) Where any property or any right in or over any property is claimed by or on behalf of the Government, or by any person as against the Government and the claim is disputed, such dispute shall be decided by the Collector whose order shall, subject to the provisions of this Act, be final:

(4) Any person aggrieved by an order made under sub- section (3) or in appeal or revision therefrom may institute a civil suit to contest the order within a period

of six months from the date of such order and the decision of the civil court shall be binding on the parties.

[18] During the course of argument, counsel for the petitioner pointed out that Section 11(3) the TLR & LR Act, 1960 is relevant. This court has no hesitation to say that in the present context that the said sub-section 3 of Section 11 is not applicable and thus the argument advanced that the claim of the petitioner should be considered under Section 11(3) as he is having the right upon the trees and he is the occupant of the land has no weightage. And thus the said argument is rejected as the same is irrelevant.

[19] Now coming to the Section 140 which deals with the intermediary entitled to receive compensation in any estate:

*Section 140: Intermediaries entitled to receive compensation:
Every intermediary, whose right, title and interest in any estate vest in the Government under Chapter XI shall be entitled to receive and be paid therefor compensation as hereinafter provided.*

[20] The definition of Estate, intermediary and rights are dealt in Part-IV Chapter XI- Acquisition of Estates and OF Rights of Intermediaries therein

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 outhouse and includes any out-buildings used for purposes connected with agriculture and any family graveyard, library, office, guesthouse, 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 therefor rent in cash or in kind or delivering a share of the procedure and includes a person who cultivates or holds land of an 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.

[21] Since the petitioner does not fall under the definition of intermediary and the estate is not the subject matter involved in the present litigation. The issue of considering the petitioner entitlement for the said compensation is decided against the petitioner and this court has no hesitation to say that he is an unauthorized occupant, trespasser. Further, in so far as judgment of the Hon'ble apex court is concerned in **Rame Gowda (supra)**, the principle laid down in the said judgment in the light of the Act dealt therein about the standing crop is concerned, it pertains to granting of injunction on the issues of balance of convenience and the same cannot be made applicable for awarding compensation towards final settlement. The case in hand has no application to the above judgment and it appears to this court the said judgment is not relevant.

[22] Now coming to the Section 80 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 which deals with payment on interest as stated below:

"80. Payment of Interest- When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of nine percent per annum from the time of so taking possession until it shall have been so paid or deposited; Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken interest at the rate of fifteen per cent per annum shall be payable from the date of expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry."

[23] Since this court has opined that the petitioner is not entitled for any compensation, the question of payment of interest under Section 80 the said Act, does not arise.

[24] In view of the above discussion, this court is of the consider view that the petitioner being an unauthorized occupant and a trespasser cannot claim any compensation. Thus, he has no authority to enter into the land. He has no right to make any plantation and also construction over the government land without obtaining any

permission. The petitioner has no *locus standi* to claim any compensation for the trees and for the unauthorized construction as contended. The petitioner has also not placed before this court any provision of law in support of his claim.

[25] In case of genuine owner/claimant losing his land, he is certainly entitled for fair compensation. But the compensation cannot be bonanza for a person having no locus. Thus, this writ petition being devoid of merit, is liable to be dismissed.

[26] Accordingly, the writ petition is dismissed. As a sequel miscellaneous applications pending, if any, shall stand closed.

[27] A copy of this order be sent to the Chief Secretary, Government of Tripura for his perusal and to look into said claims.



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