

HIGH COURT OF TRIPURA

A_G_A_R_T_A_L_A_

WP(C) No.401 of 2024

Anil Plantation Pvt. Ltd.

.....Petitioner

_V_E_R_S_U_S_

State of Tripura and 2 Others

.....Respondents

For Petitioner(s)	:	Mr. S. S. Debnath, Advocate. Mr. D. S. Kunwar, Advocate.
For Respondent(s)	:	Mr. M. Debbarma, Addl. G.A.
Date of hearing and delivery of judgment and order	:	29.11.2024
Whether fit for reporting	:	YES/NO

HON'BLE MR. JUSTICE T. AMARNATH GOUD

_F_I_N_A_L_O_R_D_E_R_

Heard Mr. S. S. Debnath, learned counsel appearing for the petitioner also heard Mr. M. Debbarma, learned Addl. G.A. appearing for the respondents.

[2] The present writ petition has been filed under Article-226 of the Constitution of India for issuing a direction to the respondents to withdraw/revise the order dated 30.09.2023 passed by the respondent No.2 in case No. 14/Rev/P.Secy/2023 or quash them by this Court by an appropriate writ.

[3] The facts in brief are that the State (respondent) was remiss in interpreting the implications of Section-136 and 178 of the T.R.R. & L.R. Act, 1960 and going under a wrong perception issued the letter dated 05.12.1975 though there is no scope to wrongly understand and under such wrong understanding both provisions under Section-136 and 178 was applied in respect of same land for the Tea Garden. In fact, it will be evident that both provisions are not applicable in respect of the rights of an intermediary (Talukder) and Rights of an ordinary Raiyat. Since, the petitioner was a intermediary prior to the enforcement of the Act of 1960, he would be guided by the provisions of Chapter-XI (Section-136) and as such Section-178 of the Act withdrawing the Exemption is not applicable. The order dated 05.12.1975 and the orders of the respondent No.2 is completely bad and contrary to law.

[4] In view of above and having heard the learned counsel appearing for the parties, this Court is of the view that the impugned proceeding dated September, 2023 needs to be set aside by remanding back the matter to the respondents i.e. Principal Secretary, Revenue for re-examining the matter in its

entirety and pass a speaking order after affording reasonable opportunity to the petitioner and this exercise shall be completed as expeditiously as possible.

[5] This Court in earlier round of litigation observed that the land in the State of Tripura belongs to the State. The petitioner has not filed any document to show that he is the owner of the land and purchased the extent of land i.e. 758.93 acres and since there is no legal entitlement and title deed placed on record, it cannot be simply considered that the petitioner is the owner of the land in question. Insofar as, the 1975 proceeding and the exemption are concerned, unless the government looks into the grass root level of the matter, declaration of title and possession and under what capacity the petitioner is in possession, it may not be just and proper to consider whether the subject land is surplus or entitled for any exemption.

[6] However, in the event, if the petitioner establishes his ownership and title upon the subject land, the petitioner will be entitled for all the benefits under the law. In such event, if the petitioner fails to prove the title, it is needless to observe that the large extent of land is belonging to the State.

[7] It is seen from the record and after hearing, this Court is of the opinion that the petitioner is not an intermediary and does not fall within the said definition and he has not placed any record before this Court to show that he has been assigned with any land by the concerned Talukdar or he is the owner. At one point of time, he argues that he is the owner of the property and on the other point he advanced argument being an intermediary. So it becomes necessary to find out the owner of the land and under what capacity the petitioner is claiming the right over the land. Since, the respondent authorities do not go into the grass-root of the case; it becomes necessary for reexamining the matter in its entirety. For the purpose of clarity, let us discuss the relevant Sections relating to the facts and circumstances of the present case in hand:

Part-IV

Chapter XI- Acquisition of Estate 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 therefore rent in cash or in kind or delivering a share of the produce 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.

* * * * *

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 (hereinafter 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 a notification in the manner provided in sub-sections (1) and (2) shall be conclusive evidence of the notice of declaration to the intermediaries whose interests are affected by such notification.

135. Consequences of a notification under Section-134-

Notwithstanding anything contained in any law for the time being in force or in any agreement or contract, express or implied, with effect from the vesting date-

(a) Each estate to which the notification relates and all rights, title and interest of intermediaries in such estate shall vest in the government free from all encumbrances, including-

(i) Rights in hats, bazars, ferries, forests, waste lands, abadi sites, fisheries, tolls and other interest;

(ii) Rights in any building other than a dwelling house or in any part of such building, used primarily as office or cutcherry for collection of rent;

(b) All grants and confirmation of title to the estate and rights therein made in favour of an intermediary shall cease and determine;

(c) Any building used for educational or charitable purposes and held by the intermediary shall vest in the government for those educational or charitable purposes;

(d) Subject to the other provisions of this Act, every tenant holding any land under an intermediary shall hold the same directly under the government as a raiyat thereof [or as a non-agricultural tenant thereof, as the case may be] and shall be liable to pay to the Government land revenue equal to the rent payable by him to the intermediary on the vesting date, subject to a maximum of the value of one-eighth of the gross produce, which value shall be determined in the manner prescribed.

Provided that the tenant shall become the owner of any building or structure constructed on such land at the expense of the intermediary on payment of such compensation to the intermediary as is equivalent to its market-value on the vesting date, which value shall be determined in accordance with the rules made in this behalf;

(e) All arrears of land revenue, local rates, cesses and other dues lawfully payable to the Government by the intermediary on the vesting date in respect of the estate shall, without prejudice to any other mode of recovery, be recoverable by deduction from the compensation payable to the intermediary.

(f) All rent and other dues in respect of the estate for any period after the vesting date which, but for this Act, would be payable to an intermediary shall be payable to the Government, and any payment made in contravention of this clause shall not be valid discharge of the person liable to pay the same.

(g) Where under any agreement or contract made before the vesting date, any rent, cess, local rate or other dues for any period after the said date has been paid to or compounded or released by an intermediary, the same shall, notwithstanding such agreement or contract, be recoverable by the Government from the intermediary, and may, without prejudice to any other mode of recovery, be realized by deduction from the compensation payable to the intermediary.

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) Homestead, buildings and structures together with the lands 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 mortgagee.

(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 therefore 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 prescribed 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) or to delivery by that date any documents, registers or records, connected with the management of such estate or interest which are in his custody or 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 therefrom 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) Notwithstanding in this section shall be deemed to authorize 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.”

[8] 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 has established their *locus* in terms of claiming ownership nor has shown that they are in possession. 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 and the proceedings which are under challenge in this writ petition also follow on the same footing.

[9] Nowhere in the pleadings the petitioner could establish his ownership right upon the land in question 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.

[10] With the above observation, the present petition stands disposed of by remanding back the matter to the concerned authority for fresh adjudication. As a sequel, miscellaneous application, pending if any, shall stands closed.

T. AMARNATH GOUD, J

A. Ghosh