

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) No.421 of 2023**

Sri Gopal Debnath

Petitioner(s)

Versus

State of Tripura & Ors.

Respondent(s)

For the Petitioner(s) : Mr. D.K Daschoudhury, Advocate.

For the Respondent(s) : Mr. D. Sarma, Addl.GA.

Date of hearing and delivery of
Judgment & Order : 21.06.2024

Whether fit for reporting : NO.

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
J U D G M E N T & O R D E R (O R A L)**

This present writ petition has been filed under article 226 of the
Constitution of India seeking the following reliefs:-

- i. Admit this writ petition;
- ii. Issue notice upon the respondents;
- iii. Issue in the nature of certiorari for quashing the order dated 03.06.2023 passed in Case No. 39/2nd Appeal/REV/P Secy/2022 by respondent 1 upholding the order dated 29.07.2022 passed by learned respondent 2 in case No. 2/2021 and the order dated 11.09.2020 passed in case No. 02/2018 by the respondent 3 cancelling the order of allotment of land measuring 0.11 acre surveyed in plot no. 1120 and recorded in Khatian No.1559 of mouza Radhakishorepur Reserve Forest;
- iv. Issue a writ of mandamus asking the respondents to show cause as to why the order of allotment granted by the Collector in favour of the petitioner as back as in the year 1997 AD shall not be restored in favour of the petitioner;
- v. Issue rule of the Hon'ble High Court after considering the reply of the respondents and hearing both the parties in the light of the items(iii) and (iv) above;
- vi. Pass any other writs/orders as the Hon'ble High Court deems fit and proper;
- vii. Grant cost of the writ petition;"

2. Brief facts of the case is that the petitioner was granted allotment of land measuring 0.11 acre surveyed in hal plot no. 1120 corresponding to old plot no. 661 classified as chara (tilla) and incorporated in Khatian No. 1559 of mouza Radhakishorepur Reserve Forest commencing from 1st day of Baishakha, 1404 BS corresponding to 1997 AD by the Collector of erstwhile South Tripura District on payment of due premium. Respondent no. 4 (Sri Narayan Debnath) along with others made a prayer before the Sub-Divisional Magistrate (respondent no3) against that allotment and by an order dated 11.09.2020 the Sub-Divisional Magistrate cancelled the order of allotment after 23 years of

granting allotment. Thereafter, the petitioner preferred an appeal on 07.08.2021 as per provisions of section 93(1)(b) of the TLR & LR Act, 1960 to the DM & Collector. But the said authority without giving any opportunity to the petitioner to adduce any evidence to counter the report of the Sub-Divisional Magistrate & relying on the same dismissed the appeal by an order dated 29.07.2022. Being aggrieved thereby, the petitioner preferred second appeal under section 93(2) of the TLR & LR Act, 1960 wherein the Ld. Principal Secretary by an order dated 03.06.2023 upheld the order of DM & Collector and rejected the appeal. Hence this petition.

3. Heard Mr. DK Daschoudhury, learned counsel appearing for the petitioner. Also heard Mr. D. Sharma, learned Addl. GA, appearing for Official respondent No. 1,2 and 3.

4. Mr. Daschoudhury, learned counsel submits before this Court that his client was granted with allotment of land measuring 0.11 acre surveyed in hal plot no. 1120 corresponding to old plot no. 661 after due premium but the allotment order was cancelled by the Sub-Divisional Magistrate after 23 years of granting allotment. Thereafter, his client filed two appeals before the Court of Ld. District Collector and the Court of Ld. Principal Secretary, Revenue Department wherein the Ld. District Collector relying on the enquiry report of Sub-Divisional Magistrate dismissed the appeal and the Ld. Principal Secretary also upheld the order of Ld. District Collector and rejected the appeal.

5. On the other hand, Mr. D. Sarma, learned Addl. GA appearing for the respondent-State submits before this Court that as per allotment rules within 02 years a person has to occupy the land but the fact is the petitioner never possessed the land. Mr. Sarma, learned counsel also submits that a landless person can be given allotment but the petitioner has 03 lands.

6. Heard both sides and perused the evidence on record.

7. It is seen from the office note dated 18.07.2023 and 25.07.2023 that notices have been served upon the respondent no. 4. Since then there is

no representation from the respondent no. 4. Hence the order has been passed against the respondent no. 4 as ex-parte.

8. In the counter affidavit it is categorically stated that the petitioner is having alternative lands two in his name and one in the name of his spouse. Thus, the petitioner violated Rule 12 and Appendix -B of The Tripura Land Revenue and Land Reforms (Allotment of Land) Rules, 1980 after allotment of the land. So his allotment order was rightly cancelled by the respondents.

9. The appeal of the petitioner was annulled on the basis of the report of the respondent No.3 (SDM, Udaipur) and verbal statement of both the parties. Besides from the enquiry report of the respondent No.3 vide No.F.5(26)/SDM/UDP/REV/CA/2021-2211701 dated 04.03.2022, it has been explored that the petitioner and his family members have owned 0.78 acres of land of the following land schedule except and apart from the impugned land:-

Mouja	Khatian No.	R/S Plot No.	Area in acre	Recorded in the name of
R.K. Pur R.F	133	986/P	0.27(as per Share)	Gopal Debnath, S/o Pran Ballav Debnath(Share of total land measuring- 0.32)
	552	1074	0.31	Sadhana Rani Debnath, W/o- Gopal Debnath
Tepania	1271	124/2737	0.20	Gopal Debnath,S/o- Pran Ballav Debnath.
Total	0.78			

10. To which there is no denial in the re-joinder. Hence this Court draws adverse inference against the petitioner for having taken paper possession and not the physical possession of the property attracts disqualification to continue the land.

11. This Court finds credence in the concurrent findings of the order dated 29.07.2022 and 03.06.2023 of the Ld. Appellate Court below and the order in original dated 11.09.2020 which is passed by the Court of Ld. Sub-

Divisional Magistrate stands affirmed. In view of the same the cancellation which is affected holds weightage and there are no infirmities. Accordingly, the writ petition fails and the same is dismissed. As a sequel, miscellaneous application(s) pending if any, shall stand closed.

JUDGE

HIGH COURT OF TRIPURA



Paritosh

SABYASACHI
HI GHOSH

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