

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 502 of 2023

1. **Sri Sankar Gupta (61 years),**
S/o Late Dharendra Kumar Gupta,
R/o Dhaleswar Road, No.14, Agartala,
West Tripura, PIN: 799001
2. **Smti. Shibani Gupta (76 years),**
D/o Late Dharendra Kumar Gupta,
R/o- Dhaleswar Road No.14, Agartala, West Tripura, PIN: 799001;
3. **Sri Swapan Kumar Gupta (70 years),**
S/o Late Dharendra Kumar Gupta
R/o Krishnangar, Agartala, West Tripura, PIN: 799001;
4. **Smti Bhabani Gupta (Sarkar) (65 years),**
W/o Late Roy Chand Sarkar,
D/o Late Dharendra Kumar Gupta,
R/o Balda Khal, Agartala, West Tripura
5. **Smti. Bani Gupta (Deb) (63 years),**
W/o Sri Dilip Deb,
D/o Late Dharendra Kumar Gupta,
R/o Bhati Abhoynagar (West)
Agartala, West Tripura, PIN: 799002
6. **Sri Sajal Kumar Gupta (61 years),**
S/o Late Dharendra Kumar Gupta,
R/o 31, Puratan Kali Bari Road, Agartala,
West Tripura, PO: Agartala.

---Petitioners(s)

Versus

1. **The State of Tripura**
Represented by the Principal Secretary, Revenue Department,
Government of Tripura, New Secretariat Building,
New Capital Complex, PO-NCC, Agartala, West Tripura
2. **The Joint Secretary,**
Government of Tripura, Revenue Department,
Agartala, West Tripura
3. **The District Magistrate & Collector,**
South Tripura, Belonia
4. **The Sub-Divisional Magistrate (SDM),**
Sabroom, South Tripura
5. **The Directorate, Directorate of Health Services,**
Government of Tripura, Gurkha, PO-NCC, Agartala, West Tripura.

---Respondent(s)

For Petitioner(s)	:	Ms. R. Purkayastha, Advocate.
For Respondent(s)	:	Mr. K. De, Addl. GA.
Date of hearing and date of judgment and order	:	03.07.2024.
Whether fit for reporting	:	Yes

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order (Oral)

Heard Ms. R Purkayastha, learned counsel appearing for the petitioners also heard Mr. K. De, learned Addl. GA appearing 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 appertaining to this petition;*
- (iii) *After hearing the parties, be pleased enough to-*
 - a) *quash/set aside any impugned order/ memo/ file note/ correspondence thereby most illegally converting the 4.10 acres of land allotted in favour of the father of the petitioners under Khatian- 1010 (Sabek Khatian No. 1080) under Sabek Dag No. 2113/2903 hal dag No.- 5802 under Mouja Paschim Jalefa, Pargana Prabhabatipur, Revenue Circle- Sabroom under Sabroom Sub-division to Khas Khatian No.1/126 under Mouja West Jalefa, Mahakuma- Sabroom, Tahashil- Harina, Revenue Circle- Sabroom as well as be pleased enough to quash/set aside the impugned approval letters dated 06.04.2020 and 29.04.2020 issued by the Respondent Nos.2 and 3 respectively and thereby allotting the land in issue under Khatian- 1010 (Sabek Khatian No. 1080) under Sabek Dag No. 2113/2903 hal dag No.- 5802 under Mouja Paschim Jalefa, Pargana Prabhabatipur, Revenue Circle- Sabroom under Sabroom Sub-division in favour of the Health & Family Welfare Department and any other such decision/ order/ file note etc.*
 - b) *direct the respondents, to recall any impugned order/memo/ file 2017 note/ correspondence thereby most illegally converting the 4.10 acres of land allotted in favour of the father of the petitioners under Khatian- 1010 (Sabek Khatian No. 1080) under Sabek Dag No. 2113/2903 hal dag No.- 5802 under Mouja Paschim Jalefa, Pargana Prabhabatipur, Revenue Circle- Sabroom under Sabroom Sub-division to Khas Khatian No. 1/126 under Mouja West Jalefa, Mahakuma- Sabroom. Tahashil- Harina, Revenue Circle- Sabroom as well as for recalling the impugned approval letters dated 06.04.2020 and 29.04.2020 thereby allotting the land in issue in favour of the Health & Family Welfare Department and any other such decision/ order/ file note;*
 - c) *prohibit the respondents from acting in any manner in furtherance of the impugned approval letters dated 06.04.2020 and 29.04.2020 and any other such decision/ order/ file note till final disposal of the instant writ petition;*
 - d) *or as an alternative relief be pleased enough to direct the respondents to pay adequate compensation to the respondents in terms of land acquisition along with available market rate of interest.*
- (iv) *Costs of and incidental to this proceeding;*

(v) *Any other relief(s) as to this Hon'ble High Court may deem fit and proper;*

[3] It is the case of the petitioners that under allotment order No.160/73 dated 31.07.1973 the said land measuring 4.14 acres had been allotted in the name of the father (Late Dhirendra Kumar Gupta) of the petitioners, as Rayati owner under Sabek Khatian No. 1080 having Dag No. 2113/2903 under Mouja Paschim Jalefa, Pargana Prabhabatipur. Revenue Circle- Sabroom under Sabroom Sub-division. The petitioners father died on 06.01.1988 and after his death, the said land was the source of livelihood of their mother Late Bindu Rani Gupta and Respondent Nos. 2, 4 and 5. Their mother died on 15.09.2011 and after her death, the petitioners, who are the sons and daughters, became the absolute owner and possessor of the said land in issue. From the documents received under RTI Act and from perusal of Khas Khatian No.1/126 under Mouja West Jalefa, Mahakuma- Sabroom, Tahashil- Harina, Revenue Circle- Sabroom (printed on 09.11.2022), the petitioners could learn that the jot land of the petitioners i.e. the land in issue had been most illegally and behind the back of the petitioners (without informing them or issuing any notice to them or even supplying a copy of the impugned order of conversion) had been converted to Khas land bearing dag No. 5802 under the aforesaid Khas Khatian No. 1/126. And after converting the said land to Khas land, the said land had been allotted in favour of Health and Family Welfare Department for setting up of 50 bedded integrated AYUSH hospital under Sabroom Sub-Division under approval letters dated 06.04.2020 and 29.04.2020 issued by the respondent Nos. 2 and 3 respectively. Being highly aggrieved, the petitioners have filed the instant writ petition before this Court.

[4] On the other hand Mr.K. De, learned Addl. GA appearing for the respondents has contended before this Court that the petitioners were never in possession of the said land and their names are not reflected in the revenue record. The respondents accorded the said piece of land in favour of the Health & Family Welfare Department, Government of

Tripura for setting up 50 bedded integrated Ayush Hospital. In support of his contention, learned government advocate has filed his counter affidavit. He further prayed to dismiss the writ petition.

[5] Heard both sides and perused the record.

[6] A fair reading of the affidavit filed in support of the writ petition indicates that the original land was allotted on 31.07.1973 in favour of Mr. Dharendra Kumar Gupta. The petitioners herein are claiming right, title and interest upon the said land. But no such document of allotment has been placed before this Court.

[7] The petitioners have enclosed a copy of khatian. It is seen from the copy of the khatian which appears to be obtained from the Revenue Department that indicates that one Mr. Dharendra Kumar Gupta has been allotted the land in 1973. But the name of Mr. Dharendra Kumar Gupta has been shown as possessor. In the absence of filing of any allotment proceeding before this Court, this Court cannot express any opinion with regard to the terms and condition of the said allotment, periods, and the boundary and extent of other land. This weakens the case of the petitioners. Even, according to the petitioners as indicated in the writ petition, Late Dharendra Kumar Gupta died on 06.01.1988 as per survival certificate issued by the Sub-Divisional Officer, Sadar, Agartala. Later Smt. Bindu Rani Gupta, wife of the Dharendra Kumar Gupta also died on 15.09.2011. It appears that at no point of time the petitioners herein have tried to take necessary steps with the Revenue Department from 1988 onwards i.e. the year of expiry of the father of the petitioners.

[8] In view of the same, according to the respondents, there is no person on record and further no petitioners are in possession of the said land. According to the respondents, since the land was vacant and was not put to use, in terms of the so called allotment, the respondents have initiated action for cancellation of the land in question way back in 2018 itself and allotted the said land in favour of the Health and Family

Welfare Department, Government of Tripura, the respondent No.5 herein. This initiative has been taken by the respondent Revenue Authority basing on the field inquiry report dated 16.12.2008 wherein it is reported that the land was vacant and not at all occupied by the allottee Late Dhirenda Kumar Gupta and there was no cultivation at all. The inquiry officers have noticed that one Khagendra Kumar Nath who is a neighbour has encroached upon the subject land in the writ petition. However, the respondents have taken steps for issuing the communication dated 29.04.2020 and handed over the land to the respondent No.5 for constructing a medical centre (Ayush Hospital with 50 bedded).

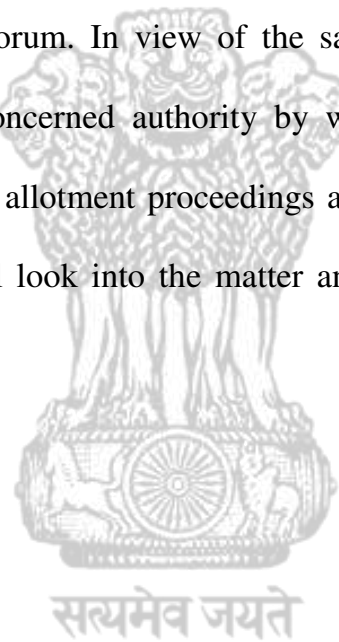
[9] In the above circumstances, the petitioners approached this Court challenging the said action of the respondents and the said cannot be appreciated as the petitioners have not filed any document to prove their *locus standi* to establish their right construed under Constitution of India. The petitioners have also not placed any documentary evidence to show that they are in possession of the said property and has been dispossessed. According to the respondents, they have identified way back in 2018 that the petitioners are not in possession of land and it was vacant and the neighbour unauthorisedly occupied the said land. The cancellation proceeding and allotment of the land in favour of the respondent No.5 has taken place in 2020 and the petitioners have approached this Court in 2023. It amounts to approaching this court with laches and inordinate delay has been committed by the petitioners and the same stands unexplained in the affidavit. When the petitioners were in possession, nothing prevented the petitioners from taking steps for challenging the allotment after the demise of their father way back in 1988 onward.

[10] This court is of the view that non utilization of the land also amounts to violation of Rule 15, sub-Rule VII of Tripura Land Revenue and Land Reforms (Allotment of Land) Rules, 1962 as the land has not been put in use for cultivation and land allotted was also not in possession. In view of the above discussion, it is clear that

the petitioners have not approached this Court with clean hands and there is no findings in their favour. Viewed from any angle, this court is of the opinion that they are not entitled for any relief under Article 226 of the Constitution of India as they have not made out any case. For the reasons mentioned above, this court thinks that the writ petition is liable to be dismissed.

[11] Accordingly, in view of the above observation the present writ petition stands dismissed. As a sequel miscellaneous applications pending, if any, shall stand closed.

[12] It is contended by Mr. R. Purkayastha, learned counsel for the petitioners that no copy of cancellation proceedings were served upon the petitioners to challenge the same before appropriate forum. In view of the said submission, the petitioners are at liberty to approach the concerned authority by way of making proper application to receive the cancellation of allotment proceedings as per procedure and on receipt of the same the respondents shall look into the matter and do the needful in accordance with law.



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