

**HIGH COURT OF TRIPURA
AGARTALA**

Cont.Cas(C) No.50 of 2024

1. Sri Subrata Saha,
son of Lt. Sital Chandra Saha, resident of Banamalipur,
P.O. Agartala, P.S. East Agartala, Sub-Division- Sadar,
District- West Tripura, PIN-799001;

2. Sri Sankar Saha,
son of Lt. Hiralal Saha,
resident of Banamalipur, P.O. Agartala,
P.S. East Agartala, Sub- Division-Sadar,
District-West Tripura, PIN-799001.

....Petitioner(s)

Versus

1. Dr. Shailesh Kumar Yadav,
the Municipal Commissioner, Agartala Municipal Corporation,
Agartala, West Tripura;

2. Sri Subrata Banik,
the Assistant Municipal Commissioner, East Zone,
Agartala Municipal Corporation, Agartala, West Tripura;

3. Sri Sambhunath Saha,
son of Lt. Balaran Saha, resident of Ganaraj Chowmuhani, Banamalipur,
P.O. Agartala, P.S. East Agartala, PIN-799001.

....Respondent-Contemnor(s)

For Petitioner(s)	:	Ms. A. Chakraborty, Advocate Ms. Rashmi Debnath, Advocate
For Respondent- Contemnor(s)	:	Mr. P.K. Biswas, Sr. Advocate Mr. A. Bhaumik, Advocate Mr. Sankar Bhattacharjee, Advocate Mr. P. Majumder, Advocate Mr. Rishiraj Nath, Advocate Mr. Pujan Biswas, Advocate Mr. Subendu Noatia, Advocate

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE ARINDAM LODH**

ORDER

25.09.2024

This petition alleges deliberate disobedience of the order dated 04.072023 passed by this Court in WA No. 105/2022. The operative portion of the order under offence is as under:

“8. As such, taking cue from the observations made in the earlier two orders, this Court directs the respondent No.3 to remove the deviations pointed out in the report dated 07.04.2022 within a period of 6(six) weeks from today. Needless to say, deviations, which are non-compoundable as indicated in the report dated 07.04.2022, have to be removed. The Corporation will carry out an inspection immediately thereafter to verify whether the deviations have been removed by the respondent No.3 or not. In case, the Corporation finds that the deviations or part of it still remains, the respondents-Corporation would be obliged to remove the same within a period of 4(four) weeks thereafter at the cost of the respondent No.3.”

An affidavit on behalf of respondents no.1 and 2 i.e. Municipal Commissioner of the Agartala Municipal Corporation has been filed. Learned counsel for respondent no.1 has referred to the statements made at paragraphs 6 and 7 of the affidavit along with the enclosures, Annexures-1, 2, 3, 4, 5 and 6 which reads as under:

“6. That, after the judgment and order dated 04.07.2023 the Corporation issued Memo bearing no. F.WANO105 OF 2022/1724-29 dated 29th August, 2023 and constituted a technical team to inspect the building of the Respondent No. 3. On 31.08.2023 the Respondent No. 3 also submitted a prayer before the Respondent No. 1 for compounding of the deviations. Accordingly, the Executive Engineer, Planning Division of Agartala Municipal Corporation was entrusted to examine the prayer of the Respondent No.3. From the inspection carried out by the technical team as well as the Executive Engineer, Planning Division of AMC it emanated that if amalgamation of the building of (i) Sri Sambhunath Saha, (ii) Sri Bholanath Saha and (iii) Sri Priyanath Saha is allowed under Rule 10 A of the Tripura Building Rules, 2017 as amended till date and revised plan is submitted then the building of the Respondent No. 3 would be within the compoundable limits under the Rules. Even the non-compoundable deviations mentioned in the report dated 07.04.2022 will come within the compoundable limits. Accordingly, amalgamation of the building construction of (i) Sri Sambhunath Saha, (ii) Sri Bholanath Saha and (iii) Sri Priyanath Saha was allowed and a revised building plan was directed to be submitted. Thereafter, the Respondent No. 3 and others submitted revised building plan. Further, penalty calculation was done by the Planning Division of Agartala Municipal Corporation which came to Rs.22,28,579/- (Twenty Two Lakhs Twenty Eight Thousand and Five Hundred Seventy Nine Only). Vide Demand Notice dated 06.04.2024 the Respondent No. 3 and others were directed to deposit the penalty amount of Rs. 22,28,579/-.

Copy of the Memo dated 29th August, 2023 and prayer of the Respondent No. 3 dated 31.08.2023 are annexed herewith and marked as ANNEXURE- 1 and ANNEXURE-2.

Copy of the Demand Notice dated 06.04.2024 is annexed herewith and marked as ANNEXURE-3.

7. That, vide letter dated 24.04.2024 the Respondent No. 3 sought 20% reduction of the penalty amount but the said prayer was rejected vide letter dated 02.05.2024. Subsequently the penalty amount was deposited and revised building permission dated 13.09.2024 was sanctioned as per the revised plan thereby regularising the building construction of the Respondent No. 3.

Copy of the letter dated 24.04.2024 and the letter dated 02.05.2024 are annexed herewith and marked as ANNEXURE-4 and ANNEXURE-5.

Copy of the revised building permission dated 13.09.2024 is annexed herewith and marked as ANNEXURE-6.”

The private respondent has also filed an affidavit.

It is submitted on behalf of the respondents that pursuant to the directions of this Court an inspection was carried out by a team of officials constituted by the Municipal Commissioner, Agartala Municipal Corporation to inspect the building. Pursuant to the said inspection, the technical team opined that if amalgamation of the building of Sri Sambhunath Saha, Sri Bholanath Saha and Sri Priyanath Saha is allowed under Rule 10A of the Tripura Building Rules, 2017 as amended till date and revised plan is submitted, then the building of the respondent no.3 would be within the compoundable limits under the rules. These 3(three) persons are brothers who had inherited the property earlier from their common ancestor. These 3(three) persons, including the respondent no.3 thereafter submitted a revised building plan with the deed of amalgamation of the plots. The same was examined by the respondent no.1 and the deviations were found to be within the permissible limit. Therefore, building permission was granted on 13th September, 2023. The revised plan was sanctioned as per order dated 13.09.2024 regularizing the building construction of the respondent no.3 with a condition to deposit the penalty of Rs.22,28,579/-. The same has also been later deposited by the respondent no.3.

Therefore, learned counsel for the respondent-Corporation and the private respondent, both submit that the order of this Court has been complied with and there is no deliberate disobedience on their part.

On being satisfied with the explanation urged we find no case of deliberate disobedience of the orders of this Court made out for proceedings against the respondents.

Accordingly, the instant petition stands disposed.

(ARINDAM LODH, J) (APARESH KUMAR SINGH, CJ)

Snigdha

SANJAY
GHOSH

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