

**JHIGH COURT OF TRIPURA
AGARTALA**

WP(C) 67 of 2025

Shri Samir Ranjan Barman

---Petitioner(s)

Versus

The Agartala Municipal Corporation and 3 Others.

---Respondent(s)

For Petitioner(s)	:	Mr. Suman Bhattacharjee, Advocate.
For Respondent(s)	:	Mr. Arijit Bhowmik, Advocate.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Order

13.02.2025

Heard learned counsel for the parties.

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

- i. *Issue Rule NISI upon the respondents to show cause why a writ of mandamus or in the nature thereof shall not be issued directing the Respondent Nos. 1 to 3 to complete the proceedings by way of inspection as per Annexure- 20 within a definite time frame;*
- ii. *As to why the foundation of the building shall not be ascertained to find as to whether the building of the respondent No.4 so constructed on the foundation was permissible, safe and in accordance with the permission given by the respondent No.1 and if not, pass appropriate order or direction to the respondent nos. 1 to 3 to demolish the illegal and unauthorized part of the building of the said respondent as per the provisions of Tripura Municipal Act, 1994 and Rules ibid;*
- iii. *Issue Writ of Mandamus or in the nature thereof commending upon the Respondent Nos. 1 to 3 to demolish the illegal and unauthorized of the respondent No.4 septic tank forthwith;*
- iv. *Issue Writ in the light of the prayers made above and make the Rule absolute;*
- v. *Any other order or direction as this Hon'ble Court considers appropriate may kindly be passed.*
- vi. *Cost of the petition may be allowed to the petitioner;*

[3] It is the case of the petitioner that the petitioner earlier filed a writ petition before this Court, which was registered as W.P.(C) 558 of 2017 against the respondents, *inter alia* stating that respondent No-4 in gross violation of the provisions of Municipal Acts and Rules had constructed her building endangering the residential building of the petitioner and the said Writ petition was disposed of. Consequent upon that some

developments took place and finally at the persuasion of the petitioner, the respondent No-3 by an order dated 24-11-2020 constituted a team comprising technical staffs of the Agartala Municipal Council to ascertain the aspect of construction of the building of the said respondent No-4 as well as the residential building of the petitioner. After constitution of that Technical team the petitioner was hopeful that the AMC, being a statutory body and the respondent No-3 being a senior and responsible Authority under the said body would take appropriate action in terms of his order dated 24-11-2020 to ascertain the genuineness of the allegation made by the petitioner. But to his utter surprise and misfortune the respondent No-3, despite repeated persuasion from the side of the petitioner, has not taken any step till date in the light of his order dated 24-11-2020 and thus kept the matter pending to the utter prejudice to the suffering of the petitioner, who is a senior citizen. Being frustrated by the passive role of the respondent No-3, the petitioner is left with no other option but to approach this Court for issuing a command upon the respondent Nos- 1, 2 and 3 to act in accordance with the order dated 24.11.2020 without any further loss of time. Hence this writ petition.

[4] On the other hand, Mr. Arijit Bhowmik, learned counsel for the respondents submits before this court that the matter is pending before the respondents and he cannot seek any direction under writ of mandamus. He also suggested that if advised, the petitioner may approach before the civil court for seeking the relief if any easement right is affected. He further prayed to dismiss the case of the petitioner.

[5] Heard both sides.

[6] Having perused the record and also having considered the submission as advanced by the counsel for the parties, it is the case of the petitioner that the respondent no.4 (the unofficial respondent) has made an unauthorized construction on his own land without affecting any rights of the petitioner. The grievance of the petitioner is that since the respondent no.4 is his neighbour and made construction without obtaining

permission. To get relief, the petitioner made a complaint before the AMC authority. In pursuant to that an expert committee was constituted for inspecting the site. This transaction occurred couple of year ago and thereafter nothing has happened giving any sort of relief to the petitioner till date. Aggrieved by the said action, the petitioner has approached before this court for seeking direction upon the official respondents to initiate action. He further prayed to allow the writ petition.

[7] Admittedly, considering the veracity of the case, the petitioner is having efficacious remedy before civil court with regard to the appreciation of the evidence whether there is any authorized or unauthorized construction and also with regard to the land and easemental right, all matters need to be examined by adducing evidence and also examining the records. Though the petitioner has failed at this juncture to make out his case, this court opines that there cannot be a direction to AMC to proceed with the inspection team which has already been constituted. The petitioner at the threshold is not having any locus as his constitutional rights are not infringed and thus the petitioner cannot maintain the writ.

[8] It appears that this is only an arm twisting method adopted by the petitioner against his neighbor despite there being no infringement of his legal right under Constitution.

[9] This litigation is prior to 2017 and at this juncture petitioner approached this court by way of this writ after so many years. Even after 2020 now again in this writ, therefore it can be construed as laches on the part of the petitioner. Further, the aim twisting method adopted by the petitioner against his neighbor can be said that he has not approached this court with clean hand.

[10] By going to the root of the matter this is purely a civil dispute which the petitioner is making an attempt to convert into writ jurisdiction. For their private dispute, this court cannot be misused.

[11] In view of the above, the present writ petition, being devoid of merit, is not maintainable and the same is liable to be dismissed.

[12] Accordingly, the same is dismissed. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.

JUDGE

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