

**JHIGH COURT OF TRIPURA
AGARTALA**

WP(C) 668 of 2024

Smt. Maya Debnath
Versus
The State of Tripura and 5 others.

---Petitioner(s)
---Respondent(s)

WP(C) 669 of 2024

Shikha Saha and 2 Ors
Versus
The State of Tripura and 5 others.

---Petitioner(s)
---Respondent(s)

WP(C) 670 of 2024

Sri Pijush Kanti Saha and 2 Others
Versus
The State of Tripura and 5 others.

---Petitioner(s)
---Respondent(s)

WP(C) 671 of 2024

Sri Gautam Saha
Versus
The State of Tripura and 5 others.

---Petitioner(s)
---Respondent(s)

WP(C) 672 of 2024

Sri Manik Debnath and 17 Others
Versus
The State of Tripura and 5 others.

---Petitioner(s)
---Respondent(s)

WP(C) 690 of 2024

Sri Sanjoy Saha and 7 others.
Versus
The State of Tripura and 5 others.

---Petitioner(s)
---Respondent(s)

For Petitioner(s)	:	Mr. P Roy Barman, Sr. Advocate. Mr. D. Paul, Advocate.
For Respondent(s)	:	Mr. P. Gautam, Sr. GA. Mr. Arijit Bhowmik, Advocate. Mr. K. De, Addl. GA. Mr. D. C. Saha, Advocate.
Date of hearing and date of judgment and order	:	13.02.2025
Whether fit for reporting	:	No

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order (Oral)

Heard learned counsel for the parties.

[2] At the very outset, it is represented by the counsel for the petitioners that since the subject matter of all the writ petitions mentioned above came out the similar facts and circumstances, all may be heard and disposed of together. Having heard so, all the matters are clustered together as the facts involved are similar in nature and can be disposed of a common judgment.

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

- I. *Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order(s) and/or directions(s) of like nature shall not be issued whereby quashing & cancelling the order 04.06.2023 issued by the Asst. Municipal Commissioner, Central Zone, AMC.*
- II. *Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order(s) and/or direction(s) of like nature shall not be issued whereby directing the Respondents to allot stalls in favour of the petitioner on the basis of the Touji created in favour of the petitioner;*
- III. *Make the rules absolute;*
- IV. *Call for records pertaining to the instant Writ petition;*
- V. *Pass any further order/orders as this Hon'ble High Court considered fit and proper;*

[4] It is the case of the petitioners that the petitioners were under the legitimate expectation of running their businesses after Touji was allotted to them, so as to maintain their family amidst such hardships and ever growing price rise. The petitioners are unemployed. It is pertinent to mention here, that, there were around 60/65 numbers of stalls in one portion of Vivekananda Market having permanent structures and in another portion of Vivekananda Market, there were approx 30/35 numbers of semi permanent stalls with half wall pucca floor tin shed roof, and in respect to most of the said stalls, Toujis were issued.

[5] The petitioners, on obtaining Touji, were maintaining possession of their touji lands altogether till the entire area of Vivekanda Market along with the adjacent

land was taken over by the Tripura Urban Planning and Development Authority (TUDA). Due to paucity of cash capital, the petitioners could not start business. Said Authority took over the possession of the entire area of the Vivekananda Market by demolishing the permanent and semi permanent stalls belonging to the petitioners and other touji holders. It was beyond any speculation of the petitioners, that, a touji holder will be deprived of his legitimate right over the portion of the market.

[6] Without taking into consideration that, handing over of the aforesaid area to TUDA, without protecting the interests of the petitioners and/or without providing proper remedies to the petitioners, would cost of livelihood, AMC, most illegally & arbitrarily handed over the aforesaid of Vivekananda Market to TUDA behind the back of the petitioners. AMC does not have any liberty to deprive the petitioners from earning their livelihood in a legal way in as much as deprivation of livelihood amounts to deprivation of life and violation of the petitioners' fundamental rights enshrined under the Constitution of India.

[7] On the other hand, it is represented by the counsel for the respondents that the land in question where earlier Vivekananda Market was existent was allotted to TUDA by the Revenue Department, Govt. of Tripura and AMC has issued no objection in this regard. Accordingly the site was handed over to TUDA and Vivekananda Market was demolished for construction of a new township at the said site. The petitioners have approached the Court at a belated stage after already the site has been handed over to TUDA by the Revenue Department, Government of Tripura on 19.09.2019 for construction of New Township in the said land. Thus the petitioners have approached the Court with a belated claim which cannot be entertained. Moreover, the claim of the petitioners cannot be entertained in a writ petition as no constitutional right or statutory rights of the petitioners have been violated. The remedy of the petitioner, if any, lies before the Civil Court.

[8] Heard both sides and perused the record.

[9] Having gone through the record and also having considered the submission as advanced by the counsel for the parties, it appears to this court that the petitioners are seeking allotment of the plot for conducting the business and accordingly a half payment was made and they are in possession for several years. Presently they claim that the subsisting land has been given away to the TUDA by the AMC-respondent. Now they are seeking alternative land to carry out their business to support their livelihood. Since the request is not considered earlier they preferred the writ petition being 326 of 2022 before this court and the matter was disposed of directing the respondents to consider the representation made by the petitioners in accordance with law within a period of three months.

[10] The respondents have considered their case and passed a speaking order dated 04.06.2023 rejecting the case of the petitioners. Aggrieved thereby, the present writ petition is filed. The AMC respondents have filed their counter affidavit. It is the case of the respondents that the petitioners do not have any locus as the case of the petitioners are only made on cash receipt which have been issued by the tax collector. It does not authorize to keep the petitioners in possession and the petitioners were never allotted any plot/premises to conduct their business. In the absence of which the petitioners have no locus and the case needs to be dismissed as no rights under constitution has been infringed.

[11] Admittedly, there is no agreement or assignment/allotment of business premises given by any competent authority representing either AMC/TUDA in favour of the petitioners. The miscellaneous receipts (money receipts) issued by the tax collector do not indicate that the amount has been received in complete as a consideration of allotment of premises. Some correspondence indicate that request of the petitioners would be considered as per terms and condition. Thereafter, the petitioners have not

entered into any such agreement and no allotment order of the said business premises has been indicated. There are no terms and condition upon which and the petitioner could rely. Based upon what is surfaced from the records, this court is of the opinion that the petitioners have miserably failed to establish their case before this court. They have also failed to convince this court that they were in continuous possession of the subject plot/premise for all these years as projected by them. Viewed from any angle, this court thinks that the petitioners have not reached before this court with clean hands and therefore this is a fit case for dismissal. Accordingly, the same stands dismissed.

[12] With the above observation and direction, this present writ petition stands dismissed. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.



JUDGE

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