

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
W.A.No.83 of 2025

1. Sri Kalipada Deb, Aged 76 years;
S/O Lt. Kamini Deb

2. Sri Kanchan Deb, Aged 50 years;
S/O Sri Kalipada Deb

3. Smt. Chameli Deb, Aged 45 years;
W/O Kanchan Deb,
All resident of Barabil, District-Khowai,
P.S. Khowai, P.O. Singhichhara, Tripura,
Pin-799201

.....Appellant(s)

Versus

1. The State of Tripura, Through the Secretary,
Department of Revenue, Government of Tripura,
New Secretariat Building, Agartala, Tripura-799010

2. The District Magistrate, Khowai,
Office of the District Magistrate,
Office Tilla, Khowai, Tripura, Pin-799202

..... Respondent(s)

For Appellant(s) : Mr. Bishal Debnath, Advocate.

For Respondent(s) : Mr. Pradyumna Gautam, Sr. G.A.
Ms. Pinki Chakraborty, Advocate.

HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE BISWAJIT PALIT

Date of Hearing & Judgment : 29/01/2026

Whether fit for reporting : YES

JUDGMENT & ORDER (ORAL)

(M.S. RAMACHANDRA RAO, C.J.)

Heard Mr. Bishal Debnath, counsel for the appellants and Mr.
Pradyumna Gautam, Senior G.A. for the respondents.

2. The 1st petitioner is the father of the 2nd petitioner and the 3rd petitioner is the wife of the 2nd petitioner. They form a single family owning different extents of land.

3. They have approached this Court by filing WP(C)No.372 of 2025 seeking payment of reasonable and payable compensation as per The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 as per current market rate along with interest and solatium and other reliefs for their land which was taken by respondents without following due process of law for a Community Center.

4. Prior to filing of the Writ Petition, they had given a demand-cum-legal notice on 11.09.2024 and another demand-cum-legal notice on 28.04.2025.

5. In the Writ Petition, they contended that certain portions of the land owned by them in Khatian No.343/2 and 3450 have been forcibly taken by the respondents without following due process of law and without paying any compensation in the year 2012. According to the appellants, on 28.12.2012, the respondents had laid a foundation stone for construction of a permanent structure later identified as the “Shyamali a.k.a. Barabil Community Center” over the land encroached by them without their consent and without initiating any proceedings for acquisition of land under the prevailing law and without paying any compensation and thus, they violated the constitutional Right to Property guaranteed under Article 300A of the Constitution of India.

6. It is alleged that the then member of the Legislative Assembly had verbally assured them that they would be paid adequate compensation in

future for the land they have been deprived of and that they need not worry. They alleged that in spite of repeated oral representations and informal follow-ups by them, the respondents had failed to initiate land acquisition proceedings and failed to pay compensation to them for their unauthorized occupation of the land.

7. The Learned Single Judge however dismissed the said Writ Petition by judgment dt.11.07.2025 on the ground that the claim of the appellants was belated and stale and they can be denied relief on the ground of laches. He observed that the respondents had taken the land of the appellants forcibly in the year 2012 and since then, the appellants had not taken any steps to redress their grievance of non-payment of compensation, or approached the Civil Court by seeking injunction or declaration of title, and they cannot invoke writ jurisdiction by filing the WP(C)No.372 of 2025.

8. Challenging the same, this Writ Appeal is filed.

9. Since, the respondents had not filed a counter affidavit before the Learned Single Judge, while admitting the appeal on 26.08.2025, this Court directed the respondents to file a counter affidavit in the Writ Appeal to the pleadings filed by the appellants in the Writ Petition.

10. In the counter affidavit at para-11, the respondents have admitted that they had built a Multipurpose Training Center, Barabil under Barabil G.P. as under :

SL. No.	Khatian No.	R.S. Plot No.	Area (Acre)
1.	1442	4641	0.11
2.	343/2	4642/p	0.08
3.	3450	4640/5329/p	0.01
		Total	0.20

11. As per the Khatians filed by the appellants, item Nos.2 and 3 in the above table belongs to the appellant Nos.1 and 2.

12. The correctness of the Khatians filed by appellants in the Writ Petition has not been disputed by respondents. The respondents have also not placed on record any revenue record/Khatian claiming title of the State or other party to items 2 and 3 referred to above. Thus, there is no dispute that the said items of land belong to appellants No.1 and 2 respectively.

13. In the counter affidavit, the respondents have not chosen to state under what principle of law they had taken away the land of the appellants for construction of Multipurpose Training Center, Barabil and why the compensation was not paid.

14. They, however, contended that there was a consent given by the appellants, though there was no formal agreement of a gift deed between the parties.

15. The respondents blamed the appellants for not approaching the authorities for claiming compensation for the occupied land and they asserted that the said Multipurpose Hall constructed on the land of the appellants was being used for Social, Cultural and Political events since 2012 without any objection or resistance from the land owners. They also denied that verbal assurance was given by the DM & Collector, Khawai for formal acquisition of the land later on.

16. The Supreme Court of India in **Vidaya Devi vs The State of Himachal Pradesh**¹ in a somewhat similar situation where property of the appellants had been forcibly occupied in the year 1967 and the appellants

¹ 2020(2)SCC 569

had approached the High Court of Madhya Pradesh in the year 2010 and the High Court had dismissed the said Writ Petition, held that, the Right to Property though ceased to be a fundamental right by the Constitution (Forty Fourth Amendment) Act, 1978, however, continued to be a human right in a welfare state, and a Constitutional right under Article 300A of the Constitution of India. It noted that Article 300A provided that no person shall be deprived of his property save by the authority of law and held that the State cannot dispossess a citizen of his property except in accordance with the procedure established by law. It held that the obligation to pay compensation, though not expressly included in Article 300A, can be inferred in that Article. It also held that to forcibly dispossess a person of his private property, without following due process of law, would be violative of a human right, as also the constitutional right under Article 300A of the Constitution.

It rejected the plea of the State Government that the appellant therein or her predecessor had “orally” consented to the acquisition as completely baseless and held that there is complete lack of authority and legal sanction for compulsorily divesting the Appellant of her property by the State.

It held that the State being a welfare State, governed by the rule of law cannot arrogate to itself a status beyond what is provided by the Constitution. It also held that the State being a welfare State, cannot be permitted to take the plea of adverse possession, which allows a trespasser i.e. a person guilty of a tort, or even a crime, to gain legal title over such property for over 12 years and that it cannot be permitted to perfect its title

over the land by invoking the doctrine of adverse possession to grab the property of its own citizens, as has been done in that case.

It also rejected the plea of delay and laches on the part of the appellants therein in moving the Court and observed that such a plea cannot be raised in a case of a continuing cause of action, or if the circumstances shock the judicial conscience of the Court. It observed that there is no period of limitation prescribed for the courts to exercise their constitutional jurisdiction to do substantial justice. It observed that the cause of action accrued to the appellants in the said case was a continuing one, since the Appellant was compulsorily expropriated of her property in 1967 without legal sanction or following due process of law. It held that the case of the appellant therein was one where the demand for justice was so compelling since the State had admitted that the land was taken over without initiating acquisition proceedings, or any procedure known to law.

It directed the State to pay compensation on the same terms as was awarded by a Reference Court to a neighbor along with statutory benefits including solatium, interest, etc. within 8 weeks, treating the case of the appellant as the case of deemed acquisition. It also directed filing of an affidavit of compliance.

17. This judgment was also followed in **Sukh Dutt Ratra and Another vs State of Himachal Pradesh and Others**².

Again in the said case, the Supreme Court of India held that the State cannot shield itself behind the ground of delay and laches in a situation like the present one and there cannot be any limitation to do justice.

² (2022) 7 SCC 508

In that case, the State had utilized the land belonging to the appellants for construction of “Narag Fagla Road” in 1972-1973 without initiating any proceedings for land acquisition and without paying any compensation to the appellants.

The appellants also filed a Writ Petition before the High Court of Himachal Pradesh in 2011 seeking compensation for their land or for initiation of acquisition proceedings under the Act. But the Writ Petition was dismissed giving liberty to the appellants therein to file a Civil suit.

18. The appellants then approached the Supreme Court.

19. The Supreme Court reiterated what it had said in the case of **Vidaya Devi**(1supra) referred to above and also reiterated that verbal consent or lack of objection cannot be raised by the State to deny compensation to the appellants therein.

20. It therefore directed the State to treat the lands of the appellants therein as a deemed acquisition and appropriately disburse compensation to the appellants on the basis of compensation given by the Reference Court in another case of a land loser of adjacent land. It also directed the State to pay legal costs and expenses of Rs.50,000 to the appellants.

21. These decisions unfortunately had not been noticed by the Learned Single Judge.

22. As in the case of **Vidaya Devi**(1supra), utilization of the land of the appellants herein by the respondents for the construction of Multipurpose Training Center, Barabil comprising of 0.08 acres in R.S. Plot No.4642/P belonging to the 1st appellant and 0.01 acres in 4640/5329/P belonging to the 2nd appellant in the year 2012 after laying the foundation stone on

28.12.2012 renders the cause of action to the appellants herein a continuous one. It also shocks the judicial conscience and so the claim of the appellants cannot be denied on the ground of delay and laches in this circumstances. The plea of verbal consent pleaded by the respondents also cannot be countenanced in view of the judgment of **Vidaya Devi(1 supra)** and **Sukh Dutt Ratra(2 supra)**.

23. Therefore, the Writ Appeal is allowed; the judgment dt.11.07.2025 of the Learned Single Judge in WP(C)No.372 of 2025 is set aside; the respondents are directed to treat that the 0.09 acres of land belonging to the appellants as having been subjected to deemed acquisition from 28.12.2012; and taking the said date into account, shall compute the compensation payable to the appellants with all statutory benefits including solatium, interest etc. as per the Land Acquisition Act, 1894 and pay the same to the appellants within 3(three) months treating as a case of deemed acquisition.

24. In the event, the appellants feel that some more lands has also been utilized by the respondents for the purpose of the “Shyamali a.k.a. Barabil Community Center”, it is open to them to approach the Civil Court and prove the same and then claim compensation on that behalf.

No costs.

(BISWAJIT PALIT, J)

(M.S. RAMACHANDRA RAO, CJ)

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JEE

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