

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) 693 of 2025**

Sri Dipanjan Poddar S/o- Lt. Dilip Podder, Proprietor of Sports and Paper House. Address - Paradise Chowmohani, P.S West Agartala, P.O-Agartala, Dist.-West Tripura, Pin-799001.

.....Petitioner

VERSUS

1. The State of Tripura, Represented by the Secretary to the Govt. of Tripura, Department of Revenue, having office at Secretariat Building, P.O- Kunjaban, P.S-N.C.C, Dist.-West Tripura, Pin-799006

2. The Secretary Govt. of Tripura Department of Revenue, New Secretariat, P.O-New Capital Complex, P.S-New Complex, Dist.-West Tripura. Capital

3. The District Magistrate & Collector, West Tripura District Agartala, West Tripura.

4. The Sub-Divisional Magistrate, Sadar, West Tripura District, Agartala.

5. Sri Prasenjit Sarkar, S/o- Sri Parimal Sarkar, R/o-Nandannagar, Sadar, District - West Tripura.

6. Sri Prabir Chakraborty, S/o- Lt. Nepal Chandra Chakraborty, Resident of Paradise Chowmuhani, P.S- West Agartala, P.O-Agartala, Dist- West Tripura, Pin- 799001.

.....Respondents

WP(C) No. 701 of 2025.

Sri Tapan Kumar Sen, S/o- Late Akhil Chandra Sen, R/o 21/2 Mantri Bari Road, Agartala, P.O Agartala P.S West Agartala, West Tripura, Pin- 799001.

.....Petitioner.

Versus

1.The State of Tripura (To be represented the Secretary, Department of Revenue, Government of Tripura), New Secretariat Complex, Agartala, West Tripura, Pin – 799010.

2. The Secretary, Department of Revenue, Government of Tripura, New Secretariat Complex, Agartala, West Tripura, PIN-799010.

3. The DM & Collector, West Tripura, Agartala, O/o the DM & Collector, Office Lane, Agartala, West Tripura, PIN-799001.

4. The SDM, Sadar, West Tripura, O/o the SDM, Sadar, Office Lane, Agartala, West Tripura, PIN-799001.

5. Sri Prasenjit Sarkar, S/o Sri Parimal Sarkar, R/o Nandannagar, P.O.: Nandannagar, PS: NCC, West Tripura, PIN-799006.

6. Sri Prabir Chakraborty, S/o Late Nepal Chandra Chakraborty, R/o Paradise Chowmuhani, PO: Agartala, PS: West Agartala, West Tripura, PIN-799001.

.....**Respondents.**

In WP(C) No. 693 of 2025

For the Petitioner(s) : Mr. S. Deb (Gupta), Advocate.
Mr. B. Pal, Advocate.
Mr. R. Gope, Advocate.
For the Respondent(s) : Mr. S.M. Chakraborty, Adv. General.
Mr. Kohinoor N. Bhattacharyya, G.A.
Mr. S. Lodh, Advocate.
Mr. K. De, Addl.G.A.
Mr. S. Majumder, Advocate.

In WP(C) No. 701 of 2025

For the Petitioner(s) : Mr. P. Roy Barman, Sr. Advocate.
Mr. Samarjit Bhattacharjee, Advocate.
Mr. K. Nath, Advocate.
Mr. D. Paul, Advocate.
Ms. A. Debbarma, Advocate.
For the Respondent(s) : Mr. S.M. Chakraborty, Adv. General.
Mr. Kohinoor N. Bhattacharyya, G.A.
Mr. S. Lodh, Advocate.
Mr. K. De, Addl.G.A.
Mr. S. Majumder, Advocate.

Date of hearing &
delivery of Judgment
& Order : 09/ 02 /2026.
Whether fit for reporting : YES.

BEFORE
HON'BLE JUSTICE DR. T. AMARNATH GOUD
JUDGMENT & ORDER (ORAL)

[1] Heard.

[2] This present petition being WP(C) No. 693 of 2025 is filed seeking the following reliefs:

“i. To admit this petition of the petitioner and call for records relevant to the subject matter from the custody of the respondents.

ii. Issue writ directing the respondent No. 1 to 4 and/or each of them not to take action in respect of order dated 04.11.2025 passed in Misc. Case 01/2025 under U/s 53(1) of the TLR & LR Art, 1960 passed by the respondent no. 3.

iii. Issue writ in the nature of certiorari to quash the order dated 04.11.2025 passed in Misc. Case 01/2025 under U/s 53(1) of the TLR & LR Act, 1960 passed by the respondent no. 3.”

[3] This present petition being WP(C) No. 701 of 2025 is filed seeking the following reliefs:-

“i. Issue Rule upon the respondents to quash/cancel the proceedings initiated by the respondent No.3, U/S 53 of the Tripura Land Revenue and Land Reforms Act, 1960, all consequential Orders.

ii. Issue Rule upon the Respondents to quash/cancel the impugned Order, dated, 04.11.2025, passed by the Respondent No. 3 in Misc. Case No. 01/2025.

iii. Make the Rules absolute;

iv. Call for all records;”.

[4] Since, the subject-matter involved in both these writ petitions are quite similar in nature, and cause of action is also identical, they are taken up together for hearing and disposal in a common order.

[5] Brief fact of the case being No. WP(C) No. 693 of 2025 is that, petitioner started the business after the death of his father under the name & style of "Sports and Paper House", at Paradise Chowmohani, Agartala, West Tripura and the petitioner is continuing the business. The crux of the matter is that the landlord was not receiving the rent and on 09.02.2024, the petitioner filed one application before the Ld. Rent Control Court. West Tripura, Agartala under Section

11(1) of the Tripura Building (Lease and Rent Control) Act, 1975 for allowing the petitioner to deposit monthly rent in the account of the Rent Control Court. The said application is registered as RCC 02/2024 and the same is pending before the learned Rent Control Court, West Tripura, Agartala for adjudication. Thereafter, the respondent No. 3 supplied a copy of the order dated 22.10.2025 which reveals that the respondent no. 5 filed a petition under Section 53(1) of TLR & LR Act, 1960 and following which the respondent No. 3 passed the impugned order dated 04.11.2025 in Misc. Case no. 01/2025 directing the petitioner and other similarly situated tenants to vacate the encroached position over the boundary of the suit plot(s) of RS plot no. 1918, 1919 & 1920, Khatian no. 1253 by 30th November, 2025 and also directed the respondent no. 4 to vacate the illegal encroachment over the boundary of the suit plot(s) of RS plot No. 1918, 1919 & 1920, Khatian No. 1253 by 10th December, 2025 exercising the power U/S 53 (1) of the TLR & LR Act, 1960.

[6] In another, WP(C) No. 701 of 2025, the case of the petitioner in brief is that he is the proprietor of the business in the name and style of “ Studio Sen” situated at Paradise Chowmuhani, Agartala. Petitioner herein has been paying the rent regularly but, since April 2024, till date, rent could not be paid for the reason that SBI account of Agartala Branch in the name of Sri Prabir Chakraborty (respondent No.6) could not be accessed by the petitioner. But, all on a sudden, respondent No.5 applied for demarcation of his land. Later on, after the several other proceedings, the respondent No. 3 supplied a copy of the order dated 22.10.2025 which reveals that the respondent No. 5 filed a petition under Section 53(1) of TLR & LR Act, 1960 and following which the respondent No. 3 passed the impugned order dated 04.11.2025 in Misc. Case no. 01/2025 directing the petitioner and other similarly situated tenants to vacate the encroached position over the

boundary of the suit plot(s) of RS plot no. 1918, 1919 & 1920, Khatian No. 1253 by 30th November, 2025 and also directed the respondent no. 4 to vacate the illegal encroachment over the boundary of the suit plot(s) of RS plot No. 1918, 1919 & 1920, Khatian No. 1253 by 10th December, 2025 exercising the power U/S 53 (1) of the TLR & LR Act, 1960.

[7] Being aggrieved and dissatisfied with the order dated 04.11.2025, (in both writ petitions), the petitioners herein preferred these writ petitions before this Court.

[8] Learned counsel appearing for the petitioners in both these writ petitions submits before this Court that the petitioners herein started their business with name and style of "Sports and Paper House", and "Studio Sen" at Paradise Chowmuhani, Agartala from 1971 and 1977 respectively. Both of the petitioners have been paying the rent with regular interval and also as per agreements of rent. But, Suddenly they are unable to access the landlord to pay the rent due to which the rent could not be paid. Later on, they came to know that the landlord sold the land to respondent No.5. Learned counsel also submits that as per application of respondent No.5 demarcation proceedings were done by the concerned department.

[9] It is also contended by the petitioners counsel appearing in both these writ petitions that one of the petitioners filed one application before the learned Rent Control Court, West Tripura, Agartala under Section 11 (1) of the Tripura Building (Lease and Rent Control) Act, 1975, for allowing the petitioner to deposit monthly rent in the account of the Rent Control Court. Thereafter, suddenly by an order dated 22.10.2025, passed in Misc. Case 01/2025 under Section 53 (1) of the TLR & LR Act, 1960, the petitioners have been asked to remain present before the court of DM & Collector on 31.10.2025. It is also submitted by the learned counsel that by an order dated 04.11.2025, the respondent

No.3 directed the petitioners to vacate the encroached position over the boundary of the suit plot(s) within 30th November, 2025. Learned counsel further submits that the DM & Collector, under Section 53 of the TLR & LR Act, 1960, does not have any jurisdiction to enter into landlord & tenant dispute, since it is a private matter. Learned counsel, therefore, urges before this Court to allow their petitions.

[10] Learned counsel appearing for the petitioners in support of their arguments placed reliance on the judgments of Hon'ble Apex Court reported in *(1998) 8 Supreme Court Cases 1* titled as *Whirlpool Corporation versus Registrar of the Trade Marks, Mumbai & Others*.

[11] Learned Advocate General, Mr. S.M Chakraborty, assisted by Mr. K. De, learned Addl. G.A. appearing for the respondents-State submits that the eviction proceedings of respondent No.3 (in both the writ petitions) is just and proper and needs no interference. Learned Advocate General vehemently opposes that the contention raised by the petitioners counsel that the question of determination of boundaries does not arise in the case of tenants. Stating thus, he placed reliance on the provision of Section 53(1) of TLR & LR Act, 1960 and submits before this Court that by the aforesaid Section the authority have the power to evict a person from his possession. He further refers provision of Section 93 of TLR & LR Act, 1960, wherein alternative remedy lies before the petitioners for appeal challenging the order of eviction.

[12] To support his contention learned Advocate General placed reliance in the Judgment of Hon'ble Apex Court in *State of Maharashtra & Ors. Versus Greatship (India) Limited* case No. *Civil Appeal No. 4956 of 2022* , the relevant paras are quoted below:

"53. In Raj Kumar Shivhare v. Directorate of Enforcement [(2010) 4 SCC 772; 2010 Legal Eagle (SC) 248] the Court was dealing with the issue whether the alternative statutory remedy available under the Foreign Exchange Management Act, 1999 can be bypassed and

jurisdiction under Article 226 of the Constitution could be invoked. After examining the scheme of the Act, the Court observed: (SCC p. 781, paras 31-32)

"31. When a statutory forum is created by law for redressal of grievance and that too in a fiscal statute, a writ petition should not be entertained ignoring the statutory dispensation. In this case the High Court is a statutory forum of appeal on a question of law. That should not be abdicated and given a go-by by a litigant for invoking the forum of judicial review of the High Court under writ jurisdiction. The High Court, with great respect, fell into a manifest error by not appreciating this aspect of the matter. It has however dismissed the writ petition on the ground of lack of territorial jurisdiction.

32. No reason could be assigned by the appellant's counsel to demonstrate why the appellate jurisdiction of the High Court under Section 35 of FEMA does not provide an efficacious remedy. In fact there could hardly be any reason since the High Court itself is the appellate forum."

7. Applying the law laid down by this Court in the aforesaid decision, the High Court has seriously erred in entertaining the writ petition under Article 226 of the Constitution of India against the assessment order, bypassing the statutory remedies.

8. Now so far as the reliance placed upon the decisions of this Court by the learned Senior Advocate appearing on behalf of the respondent, referred to hereinabove, are concerned, the question is not about the maintainability of the writ petition under Article 226 of the Constitution, but the question is about the entertainability of the writ petition against the order of assessment by-passing the statutory remedy of appeal. There are serious disputes on facts as to whether the assessment order was passed on 20.03.2020 or 14.07.2020 (as alleged by the assessee). No valid reasons have been shown by the assessee to by-pass the statutory remedy of appeal. This Court has consistently taken the view that when there is an alternate remedy available, judicial prudence demands that the court refrains from exercising its jurisdiction under constitutional provisions.

9. In view of the above and in the facts and circumstances of the case, the High Court has seriously erred in entertaining the writ petition against the assessment order. The High Court ought to have relegated the writ petitioner assessee to avail the statutory remedy of appeal and thereafter to avail other remedies provided under the statute.

10. Under the circumstances, the impugned judgment and order passed by the High Court is hereby quashed and set aside. The writ petition filed before the High Court challenging the assessment order and consequential notice of demand of tax is hereby dismissed. The respondent assessee is relegated to avail the statutory remedy of appeal and other remedies available under the MVAT Act and CST Act. It is directed that if such a remedy is availed....."

[13] Referring to this judgment he urged before this Court that the petitioners may approach before the appropriate forum for alternative remedy and dismiss the writ petitions.

[14] Mr. S. Majumder, learned counsel appearing for the respondent No. 5 in both these writ petitions adopted the arguments made on behalf of respondents-State by learned Advocate General Mr. S.M Chakraborty and he submits before this Court that the respondent No.5 has acquired the land by way of sale deed. He also submits that if there is any alternative remedy, then there is no need for invoking writ jurisdiction. He, therefore, placed a judgment of Hon'ble Supreme Court reported in **2025 Live Law (SC) 1129** titled as **Rikhab Chand Jain** versus **Union of India & Ors.** and further prayed to dismiss the writ petitions.

[15] Heard and perused the evidence on record.

[16] To appreciate the case of the petitioners the relevant portions of the impugned order is extracted as under:-

“.....(xxi) The Ops are directed to vacat the encroach position over the boundary of the suit plot(s) of RS plot No.1918, 1919 & 1920, khatian No.1253 by 30th November, 2025.
(xxii) The SDM, Sadar is directed to vacat the illegal encroachment over the boundary of the suit plot(s) of RS plot No.1918, 1919 & 1920, khatian No.1253 by 10th December, 2025 exercising the power U/S 53(1) of the TLR & LR Act. 1960.
The instant case is hereby disposed of....”

[17] It is seen that respondent No.3 (in both the writ petitions) passed an order under Section 53 of TLR & LR Act, 1960. For better appreciation of the matter Section 53 of TLR & LR Act, 1960 is quoted here under:-

“53. Effect of settlement of boundary.”-(1) The settlement of a boundary under this Chapter shall be determinative-
(a) of the proper position of the boundary line or boundary marks; and
(b) of the rights of the landholders on either side of the boundary fixed in respect of the land adjudged to appertain, or not to appertain, to their respective holdings.
(2)Where a boundary has been so fixed, the Collector may at any time summarily evict any landholder who is wrongfully in possession of any land which has been adjudged in the settlement of a boundary not to appertain to his holding or to the holding of any person through or under whom he claims.”

[18] Admittedly, both the petitioners are in possession of the subject property as tenants and are paying rents and the matter is already *sub-judiced* by the concerned Rent Control Court. In view of the change in ownership, the purchaser of the property who has entered into the status of the owner by virtue of purchasing the said property and the vendor who happens to be the owner initiated proceedings before the respondent No.3 under Section 53 of TLR & LR Act, 1960.

[19] According to this Court, if a person seeks for eviction of any person who is occupying the land being a tenant and doing his business over the said premises, the appropriate forum is Rent Control Court as established by The Tripura Buildings (Lease and Rent Control) Act, 1975 or depending upon the facts remedy lies before competent Civil Court.

[20] Further, this Court is of the view that Section 53 of TLR & LR, Act 1960, deals with settlement of boundary, survey numbers and sub-divisions and specify the consequences of such settlement of boundaries. This object of the act and its applicability pertains to the Govt. lands and the person in possession or in concern with the Govt. lands and the officials of the State. But not amongst both private individuals related to private land.

[21] This Court further draws the attention of Section 93 of TLR & LR Act, 1960 wherein alternative remedy lies. The same is extracted as under:-

“93.Appeals:- (1) *Save as otherwise expressly provided, an appeal shall lie from every original order passed under this Act,-*
(a) *if such an order is passed by an officer sub-ordinate to the sub-divisional officer, to the sub-divisional officer;*
(b) *if such an order is passed by the sub-divisional officer, to the Collector;*
(c) *if such an order is passed by the Collector, to the [State Government];*
(d) *if such an order is passed by an assistant survey and settlement officer, to the survey and settlement officer or to revenue officer notified by the State Government in the Official Gazette to be the appellate authority; and*
(e) *if such an order is passed by a survey and settlement officer, to the director of settlement and land records or to a revenue officer notified by*

the "[State Government] in the Official Gazette to be the appellate authority.

(2) A second appeal shall lie against any order passed in first appeal,-

(a) if such an order is passed under clause (a) of sub-section (1), to the Collector;

(b) if such an order is passed under clause (b) of sub-section (1), to the "[State Government];

(c) if such an order is passed under clause (d) of sub-section (1), to the director of settlement and land records or to a revenue officer notified by the "[State Government) in the Official Gazette to be the second appellate authority; and

(d) if such an order is passed under clause (e) of sub-section (1), to the "[State Government]."

[22] That above appeals are the alternative remedy for a person if aggrieved by an order under Section 53 of the TLR & LR Act, 1960. Now, comes the issue to opine that when the objective of the Act and Rules are not applicable, the question of invoking power under Section 53 does not arise. Likewise, there cannot be any alternative remedy of appeal under Section 93 in the absence of jurisdiction of the act upon a private land dispute amongst private individuals. Therefore, the arguments advanced by the respondents on the point of alternative remedy is misconceived.

[23] This Court also finds force in the Judgment of Hon'ble Apex Court reported in *(1998) 8 Supreme Court Cases 1* titled as ***Whirlpool Corporation versus Registrar of the Trade Marks, Mumbai & Others.*** Accordingly, the relevant portion is quoted as under for better appreciation of the matters.

"15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old

decisions of the evolutionary era of the constitutional law as they still hold the field.

[24] In view of the above, this Court is of the opinion that Section 53 of the TLR & LR Act, 1960, is not applicable to the facts of the present matters since, it is an absolute private dispute between the owner and the tenant. But, surprisingly, the respondents authorities are treating the tenants under the tenancy laws as if the said land belongs to the revenue department / government land. It cannot be said that the respondents are ignorant of such a simple legal and factual issue. They could have been more vigilant while entertaining the complaints or petitions from the parties. Without there being any test of maintainability and applicability of law, entertaining such frivolous applications and driving the citizens to challenge them before this Court, needs to be viewed with all seriousness .

[25] Thus, the impugned orders dated 04.11.2025 passed by the respondent No.3 in both the writ petitions, stand set aside being without jurisdiction.

[26] Both petitioners and unofficial respondents are at liberty to pursue the remedies before the appropriate Court of law to protect their rights.

[27] With the above observations and directions, these present writ petitions stand allowed and the same are disposed of. As a sequel, miscellaneous application(s), pending if any, shall also stand closed.

DR. T. AMARNATH GOUD, J

Paritosh

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