

THE HIGH COURT OF TRIPURA

A G A R T A L A

W.P(C) No. 48 of 2003

Petitioners :

- 1. Shri Milan kanti Das,**
S/o. Late Bhupendra Kr. Das, Kajir Gaon,
Kailashahar.
- 2. Shri Mrinal Kanti Paul,**
S/o. Late Makhan Ch. Paul, Govindapur,
Kailashahar.
- 3. Shri Bibhas Deb,**
S/o. Late Bibhu Bhusan Deb, Boulapasha,
Kailashahar.
- 4.** As per Hon'ble Courts order dated
5.9.2013 passed in C. M. Appl. No.313 of
2013, the following legal heirs of petitioner
No.4 (deceased) have been substituted:
 - 1) Smt. Arati Debnath,**
W/o. Late Binanda Debnath.
 - 2) Sri Banamali Debnath**
 - 3) Sri Birendra Debnath**
S/o. Late Binanda Debnath, All are
residents of Vill & P.O- Sarurpar,
Unokoti District, Tripura.
 - 4) Sri Arjun Debnath,**
S/o. Late Binanda Debnath, Cinema
Hall Road, PO-Kailashahar, Unokoti
Dist. Tripura.
 - 5) Sri Karun Debnath,**
S/o. Late Binanda Debnath,
Vill-Durgapur, P.O-Paiturbazar,
Kailashahar, Unakoti Dist.-Tripura.
- 5. Shri Gopendra Ch. Gope,**
S/o. Shri Gopal Ch. Gope, Kajir Gaon,
Kailashahar.
- 6. Shri Sujit Kr. Deb,**
S/o. Late Sashimohan Deb, Latiapur,
Kailashahar.
- 7. Shri Bibhas Kanti Das,**
S/o. Late Bijay Kr. Das, Chandipur,
Kailashahar.
- 8. Chanchal Kumar Kar,**
S/o. Shri Chitta Ranjan Kar, Chandipur,
Kailashahar.

9. Shyamal Dey,
S/o. Shri Lalit Mohan Dey, Srirampur,
Kailashahar.

10. As per Hon'ble Courts order dated 21.3.2014 passed in C. M. Appl. No.313 of 2013 (In W.P(c) No. 48 of 2003), petitioner No. 10 has been struck off from the array.

11. As per Hon'ble Courts order dated 21.3.2014 passed in C. M. Appl. No.313 of 2-13 (In W.P(c) No. 48 of 2003), petitioner No. 11 has been struck off from the array.

12. Smti Rekha Biswas (Ghosh)
W/o. Late Monoranjana Biswas, Julaibari,
Belonia, South Tripura.

13. Smti. Purnima Sinha,
W/o. Pulak Ranjan Sinha, Ramchandranagar,
Sankrail, District-Howrah, West Bengal.

14. Smti. Lila Choudhury,
W/o. Shri Pranesh Ranjan Choudhury. Dr. S.
N. Mukherjee Street, Uttar Para, Hoogly, West
Bengal.

15. Shri Hiranmay Biswas,
G.11, Nabadarsha, Birati, P.S.-Airport, Kolkata.
(Petitioner Nos. 10 to 15 represented by Shri
Pannalal Ghosh, S/o. Late Akhil Ch. Ghosh,
Panichowki Bazar, as their constituted
Attorney).

By Advocates :

Mr. S. M. Chakraborty, Sr. Adv.
Mr. S. Bhattacharji, Adv.

Respondents :

- 1. Sub-Divisional Magistrate,**
Kailashahar.
- 2. Sub-Registrar,**
Kailashahar Sub-Division, Office of the Sub-
Registrar, Kailashahar.
- 3. Shri Sudir Sarkar,**
T.C.S., Sub-Divisional Magistrate, Kailashahar.
- 4. The District Registrar(A.D.M),**
Kailashahar, North Tripura.
- 5. Nani Gopal Ghosh,**
S/o. Late Akhil Ch. Ghosh, Panichowki Bazar,
Kailashahar.
- 6. The State of Tripura.**

By Advocate :

Mr. D. Chakraborty, Sr. Adv.
Ms. Nabanita Majunder, Adv.

B E F O R E
THE HON'BLE CHIEF JUSTICE MR. DEEPAK GUPTA

Date of hearing &
Judgment & Order : **27th February, 2015.**

Whether fit for reporting :

Yes	No
	✓

JUDGMENT & ORDER (ORAL)

As agreed by the learned counsel for the parties, this writ petition is delinked from the other matters and taken up for final disposal.

[2] By means of this writ petition the petitioners have prayed that the registering authorities be directed to register the sale deeds which were presented before respondent No.2 on various dates between 20th November, 2002 to 23rd December, 2002.

[3] The undisputed facts are that the original petitioners 10 to 15 through their General Attorney, Pannalal Ghosh executed sale deeds in favour of petitioners 1 to 9. These sale deeds which were executed between the parties related to property which in the revenue record were shown to be owned by petitioners 10 to 15. One Sri Nani Gopal Ghosh, respondent No.5 who was a real brother of Pannalal Ghosh raised objection to the transfer on various grounds. On the one hand, he claimed that the land which was the subject matter of the sale deeds belonged to him (Nani Gopal Ghosh) and on the other hand, he filed a complaint with the revenue authorities that the sale being effected by petitioner Nos.10 to 15 was in respect of land which was held by them in excess of the permissible holdings which they were entitled to have

under the provisions of the Tripura Land Revenue and Land Reforms Act, 1960 (for short, TLR & LR Act).

[4] Here, it would be pertinent to point out that original writ petitioner No.10 had filed FAO No.2 of 2002 before the Division Bench of Gauhati High Court. In that case Pannalal Ghosh for himself and other co-sharers filed an application before the Division Bench of this Court praying that they may be permitted to sell the property. This prayer was opposed by the learned counsel for the Nani Gopal Ghosh and finally the following order was passed:

“The respondent Mr. Pannalal Ghosh and other co-sharers may transfer their part of shares (Schedule A land described in this petition) subject to the condition that in the event the appellant-petitioner succeeds in the appeal and the suit is decreed, then the purchaser shall be bound to accept the portion of the land that will fall in the share of Mr. Pannalal Ghosh and other co-sharers when the property is partitioned by meet and bounds. This order shall remain in force till disposal of the connected appeal(FAO No.2/02)” .

Therefore, on 28.11.2002 the High Court permitted Pannalal Ghosh and the other co-sharers to transfer their part of the shares subject to the condition that in case Nani Gopal Ghosh succeeded in his appeal (FAO No.2 of 2002) and the suit was decreed then the purchaser would be bound by the decree passed in the suit filed by Nani Gopal Ghosh. Thus, it is clear that a Division Bench of Gauhati High Court had permitted Pannalal Ghosh and other co-sharers i.e. petitioners 10 to 15 to sell the land in question and they accordingly executed the sale deeds and presented the same before the Sub-Register for registration.

[5] In the meantime, Nani Gopal Ghosh apparently filed some complaint with the SDM and on 7th December, 2002 the competent authority i.e. the Sub-Divisional Magistrate, Kailashahar issued notice to the heirs of Akhil

Ch. Ghosh including the petitioners 10 to 15 herein asking them to file fresh returns in respect of the ceiling surplus land. He also made reference to an earlier notice issued on 12.04.1983. Thereafter on 27.12.2002 the Sub-Divisional Magistrate passed the following order:

**"IN THE COURT OF SUB-DIVISIONAL MAGISTRATE
Kailashahar**

**Ref.- Ceiling case No.1/1976 of Akhil Ch. Ghosh of
Panichowki Bazar, Kailashahar.**

ORDER

27-12-2002

It has been made to appear to me that as per Provision of TLR & LR Act, a large area of land was declared as ceiling surplus land and vested to the Government vide ceiling case No. 1 of 1976 and subsequently the heirs of late Akhil Ch. Ghosh of Kailashahar Town have acquired land in addition to the retainable land allowed. Accordingly the ceiling was re-opened and notice was issued to the heirs of late Akhil Ch. Ghosh of Kailashahar on 12th April 1983 to submit return in Form 60 & 61 as required u/s 165 of TLR & LR Act, 1960 for determining ceiling of land a fresh. But none of the heirs submitted return. Further, all heirs of Late Akhil Ch. Ghosh have been asked to submit the return in Form No. 60 & 61 vide notice issued on 7.12.2002. Considering the above fact as per provision of section 168 of TLR & LR Act, 1960, I am satisfied to order to restrict transfer/partition of land by the heirs of Lt. Akhil Ch. Ghosh until the excess land is determined.

Send copy of the order to the District Register/Sub-Register, Kailashahar and the heirs of Lt. Akhil Ch. Ghosh of Kailashahar Town.

As dictated.

**(S. Sarkar)
Sub-Divisional Magistrate
Kailashahar**

**(S. Sarkar)
Sub-Divisional Magistrate
Kailashahar"**

This order is under challenge in this proceeding. At this stage it may be pertinent to point out that ceiling proceedings in respect of the estate of Late Akhil Ch. Ghosh had been initiated much earlier and on 08.06.1976 the Collector had passed a specific order whereby he declared an area of 25.602 standard acres to be surplus area. That surplus area was identified giving the CS Plot number, the class of land, the area of each plot in ordinary acres and in standard acres, the details of which are found in the order dated 08.06.1976. It

appears that in 1983 some proceedings were again initiated to reopen the order of 1976 and thereafter in 2002 another notice was issued as referred to above. At this stage, this Court is not going into the question whether ceiling proceedings which had come to an end in the year 1976 could be reopened in 1983 or 2002 because that is not the question posed before this Court. The fact of the matter is that till date Order No.10 dated 8.6.1976 holds the field and has not been set aside. True it is that petitioners 10 to 15 have been asked to furnish fresh returns, but till date no order passed by a competent authority has been placed before this Court to show that the Order No.10 dated 8.6.1976 has been modified, altered or set aside.

[6] The land which is the subject matter of the sale deeds is admittedly not the land which has been declared surplus under Order-10 dated 8.6.1976. Therefore, I see no reason why the sale deeds which have been executed by original petitioners 10 to 15 in favour of the original petitioners 1 to 9 should not be registered. It is, however, made clear that by registration of the sale deed the petitioners 1 to 9 cannot transfer a title better than what they hold. Therefore, if finally in any proceedings the order dated 8.6.1976 is set aside the petitioners 1 to 9 being aware that some proceedings have started will be bound by the order. It is also made clear that since petitioner Nos.1 to 9 have stepped into the shoes of petitioners 10 to 15 they shall be entitled as a matter of right to contest any such proceedings which may be started again by the State in respect of the original ceiling proceedings.

In case, the State wants to review or modify or in any manner change the order dated 08.06.1976 it must take steps within a reasonable time or within the limitation prescribed by law. Therefore, any proceedings are

initiated the petitioners shall be at liberty to raise all defences including the defence that proceedings have not been initiated within the time prescribed.

[7] In view of the aforesaid discussions, I find that the respondent No.2, Sub-Register could not have refused to register the sale deeds. The sale deeds are lying in his custody and he is directed to complete the formalities of registration and register the same within 4(four) weeks from the receipt of the order. The petitioners shall either personally or through their power of attorney appear before the registering authority along with a copy of this order and thereafter the registering authority shall ensure that the sale deed is registered within 4(four) weeks.

[8] The petition is disposed of in the aforesaid terms. No order as to costs.

CHIEF JUSTICE