

IN THE HIGH COURT OF TRIPURA
AGARTALA

W.P.(C) NO.198 OF 2012

1. Smt Sobha Deb,
wife of late Swadesh Chandra Deb
2. Sri Satyajit Deb,
son of late Swadesh Chandra Deb
3. Sri Biswanath Deb,
son of late Swadesh Chandra Deb
4. Sri Asish Deb,
son of late Swadesh Chandra Deb
5. Smt Sabita Deb,
wife of late Tapan Kumar Deb

- all are residents of Gobindapur,
P.O. Kailashahar, Unakoti District

..... Petitioners

– Vs –

1. The State of Tripura,
represented by the Secretary,
Revenue Department, Govt. of Tripura,
Capital Complex, P.O. Kunjaban,
District : West Tripura
2. The District Collector,
Unakoti District, P.O. Kailashahar
(Appellate Tribunal)
3. The Sub Divisional Magistrate,
Kailashahar, P.O. Kailashahar, Unakoti District
(Estate Officer)
4. The Managing Committee,
Ramkrishna Shiksha Pratisthan,
a privately managed School aided by the Government,
represented by its Secretary,
Kailashahar Town, P.O. Kailashahar, Unakoti District

..... Respondents

B E F O R E
THE HON'BLE MR. JUSTICE S. TALAPATRA

For the petitioners : Mr. G.S. Bhattacharji, Advocate

For the respondents : Mr. S. Deb, Sr. Advocate
Ms. A.S. Lodh, Addl. G.A.
Mr. S. Dutta, Advocate

Date of hearing & order : 20.08.2015

Whether fit for reporting :

Yes	No
√	

JUDGMENT & ORDER (ORAL)

Heard Mr. G.S. Bhattacharji, learned counsel appearing for the petitioners as well as Mr. S. Deb, learned senior counsel, assisted by Mr. S. Datta, learned counsel appearing for the respondent No.4 and Ms. A.S. Lodh, learned Addl. Govt. Advocate appearing for the respondents No. 1, 2 and 3.

2. By means of this writ petition, the petitioner has challenged the order dated 02.02.2012 delivered in case No. Appeal/TPP/01/2012 under Section 11(1) of the Tripura Public Premises (Eviction of Unauthorised Occupants) Act, 1982 by the District Magistrate & Collector, Unakoti District, Kailashahar, upholding the order dated 26.12.2011 delivered

in case No.01/TPP/2010 under Section 4(1) of the Tripura Public Premises (Eviction of Un-authorised Occupants) Act, 1982, by the Estate Officer, the Sub-Divisional Magistrate, Kailashahar, North Tripura, now Unakoti District.

3. It is not in dispute that a piece of land was permitted to be occupied by Sri Swadesh Chandra Deb who was working in the Ramakrishna Siksha Pratisthan, a privately managed school under the Grand-in-aid provided by the Government of Tripura. After death of Swadesh Chandra Deb, one of his sons was engaged by the said school authority, but he died prematurely. Thereafter, the school authority asked them to vacate the land without delay. It is also not in dispute that the petitioners sought some time for such vacation, but when the petitioners did not vacate the land of the school pertaining to Khatian No.2054/2, C.S. plot No.4342 of mouja Kailashahar town, village East Gobindapur, the school authority approached the Sub-Divisional Magistrate for their eviction.

4. On the basis of such approach, the case No.01/TPP/2010 was registered and finally, by the order dated 26.12.2011 the petitioners were asked to vacate the said land.

5. The proceeding since was taken in terms of Section 4(1) of the Tripura Public Premises (Eviction of Unauthorised Occupants) Act, 1982, the petitioners challenged the maintainability of that proceeding at the first instance, contending that the land in question cannot be termed as the "public premises" in view of Section 2(d) of the said Act. "Public premises", according to Section 2(d) of the Act means any premises belonging to or taken on lease or requisitioned by, or on behalf of the State Government and includes any premises belonging to or taken on lease by, or on behalf of any company as defined in Section 3 of the Companies Act, 1956 in which not less than fifty-one per cent of the paid-up share capital is held by the State Government, or any Corporation (not being a company as defined in Section 3 of the Companies Act, 1956 or a local authority) established by or under a Central or State Act and owned or controlled by the State Government, or any Municipality, constituted under Tripura Municipal Act, 1992, any Gram Panchayat, Panchayat Samity and Zilla Parishad constituted under Tripura Panchayats Act, 1993, a wakf as defined in the Wakf Act, 1954 and entered in the register of wakfs maintained under Section 26 of that act and the Revenue Department of the Government of Tripura or premises

managed or controlled by it or by District Magistrate and Collector.

6. It is obvious that a land belonging to a privately managed school do not come within the definition of “public premises”. Even the school cannot be stated to be controlled by the State Government.

7. Mr. S. Deb, learned senior counsel has however referred to the Memorandum No.F.1(1)-COMM/SF/06 dated 04.04.2006 (Annexure-R4A to the counter-affidavit filed by the respondent No.4). For purpose of further reference, the contents of the said memorandum dated 04.04.2006 is extracted hereunder :

“All the offices as well as the Educational Institutions of this Department are presently in physical occupation of a large quantity of govt. land. Normally, the concerned land is duly recorded in the name of the concerned Office/Educational Institution in the Records of Right (khatian) maintained in the T.Ks. However, it has been observed during field visits in some places that in certain cases part of our land are illegally and un-authorizedly occupied and encroached by others.

2. Accordingly, the Director, SCERT, Principals of DIET’s, DEOs, Inspectors of Schools and all the Heads of Institutions i.e. Headmasters/Headmistresses of Govt. Schools are hereby instructed to ensure proper maintenance of records related to land owned by individual offices/institutions/schools. A file with the subject “Land matters” must be

opened and maintained in all offices/DIETs/Schools. Wherever, there is any case of unauthorized occupation/encroachment by others, the concerned Sub-Divisional Magistrate in the Sub-Division may be approached for immediate physical demarcation and eviction of unauthorized occupants.

3. The DEOs and the Inspectors of Schools should immediately bring the matter to the notice of all schools within their respective jurisdiction for compliance.”

8. Perhaps, the said memorandum dated 04.04.2006 refers to the Educational Institution of the Department. But the Educational Institutions as referred in the said memorandum cannot and does not include the privately managed schools. The privately managed schools are regulated in certain matters by the Government in terms of the Grant-in-aid Rules, 2005. But it is no denying fact that the school is managed and controlled by the elected managing committee of the school. The land is not the Government land. As such, that memorandum does not have any bearing for purpose of expanding the definition of “public premises”.

9. Being aggrieved by the impugned order dated 26.12.2011, the petitioners preferred an appeal to the District Collector under Section 11(1) of the Tripura Public

Premises (Eviction of Unauthorised Occupants) Act, 1982, being case No. Appeal/TPP/01/2012. But, the appellate court did not interfere with the said order dated 26.12.2011, rather by the order dated 02.02.2012 delivered in Appeal/TPP/01/2012, the appellate court, the District Collector, Unakoti District, Kailashahar affirmed the analogy of the Estate Officer :

"Gone through the case record, examined the copy of Tripura grant in Aid (Govt. aided school) Rules, 2005 and record of right. It appears that the land is recorded in the name of Ram Krishna Siksha under khatian No.2054/2, old plot No.4337/8089(P), Hal plot No.4332 of mouja Kailasahar which is a 100% govt. aided school. As such, the land in question is a "Public premises".

Therefore, I uphold the judgment passed by Ld. Estate Officer (SDM, Kailashahar) dated 26.12.2011. However as the 1st party has prayed for time, time is allowed for 3(three) months for vacating the land on humanitarian ground"

10. The said interpretation is wholly unacceptable. Though the grant-in-aid has been extended to the school, but the Government does not have any interest over the properties of that school. As such, according to this court, the proceeding as drawn up under Section 4(1) of the Tripura Public Premises (Eviction of Unauthorised Occupants) Act, 1982 is not maintainable, inasmuch as the premises which is

under reference in the proceeding is not a public premise. Accordingly, the impugned orders dated 26.12.2011 and 02.02.2012 are quashed.

11. At this juncture, Mr. G.S. Bhattacharji, learned counsel appearing for the petitioners has submitted that the petitioners may be allowed some reasonable time so that they can leave the land under reference. Mr. Bhattacharji, learned counsel has made a specific prayer for granting the petitioners 1(one) year time for vacating the land. To that proposition, Mr. Deb, learned senior counsel has raised serious objection.

12. However, on considering the attending circumstances, this court is of the view that the petitioners be at best granted 8(eight) months' time for vacating the land. Accordingly, the petitioners are directed to vacate the land within 8(eight) months from today, else they are to face the consequence for violating the order of this court.

13. Accordingly, this petition stands allowed to the extent as indicated above.

JUDGE

ROY