

**HIGH COURT OF TRIPURA
AGARTALA**

W.P(C) NO.259 OF 2010

Shri Binode Behari Chakraborty,
S/o Late Bimala Charan Chakraborty,
Ramnagar Road No.2, P.O. Ramnagar,
Agartala, West Tripura.

...Petitioner.

- Versus -

1. The State of Tripura,

Through the Secretary to the Government of Tripura,
Revenue Department, Civil Secretariat,
New Capital Complex, P.O. Kunjaban,
Agartala, West Tripura.

2. The District Magistrate & Collector,

West Tripura District,
P.O. Agartala, West Tripura.

3. The Director of Land Records & Settlement,

Government of Tripura,
P.O. Agartala, West Tripura.

4. The Deputy Director,

Land Records & Settlement,
Government of Tripura,
P.O. Agartala, West Tripura.

..... Respondents.

**BEFORE
THE HON'BLE MR.JUSTICE S.C. DAS**

For the Petitioner : Mr. S. M. Chakraborty,
Sr. Advocate.

For the Respondents : Mr. D.C. Nath, Advocate.

Date of hearing & : **23.03.2015.**
delivery of judgment
and Order.

Whether fit for reporting : **NO**

JUDGMENT & ORDER (ORAL)

Heard learned Sr. counsel S.M. Chakraborty for the petitioner and learned counsel Mr. D.C. Nath for the State-respondents.

2. The case of the petitioner is that he is the owner of a building at Ramnagar Road No.2, Ramnagar, Agartala and it was hired on rent by the Revenue Department, Govt. of Tripura, initially for utilization of Special Land Acquisition Collector, West Tripura for the period from 01.09.1997 to 25.08.1998 and thereafter for utilization of the Settlement Officer, West District to run Halka Camp No.1 and the total area of the building was 1,580 sqft. comprising of 6(six) nos. of big rooms and one small room. The rent was paid to the petitioner @ Rs.2,872/- per month from 01.09.1997. Thereafter the said rent was revised and provisional rent of Rs.3000/- per month was paid. The petitioner requested respondent No.2 by his letter dated 23.04.2005 to fix a fair rent and accordingly, the District Level Committee, constituted as per Memo dated 06.05.1982 (Annexure-2 to the writ petition) assessed the rent @ 15% enhancement over Rs.4,654/- per month (Annexure-4 to the writ petition) for the period from 19.04.1999 to 18.04.2004. It is the grievance of the petitioner that the respondent by issuing Memo dated

23.07.2009 and Memo dated 21.12.2009 (Annexure-5 and Annexur-8 to the writ petition) respectively unilaterally arrived at a conclusion that for the period from 19.09.1999 to 18.04.2004, the petitioner was getting rent @ Rs.4,654/- per month as assessed by Public Works Department and that he will not get the rent of 15% above the said amount of Rs.4,654/- as assessed by the District Level Committee. The petitioner, therefore, prayed for quashing Memo dated 02.07.2009 and 21.12.2009 (Annexure-5 and Annexure-8 to the writ petition) respectively and prayed for directing the respondents to pay rent for the period from 19.04.1999 to 18.04.2004 @ 15% above Rs.4654/- as per Annexure-4 i.e. Memo dated 12/15-09-2008.

3. Respondents contended that as per Memo dated 06-05-1982, the District Level Committee will take up the matter only in the event it is referred by the head of the department for assessment of the land in case the owner of the building is not satisfied with the amount fixed by the head of the department. It is the contention of the respondents that a provisional rent of Rs.3000/- was paid to the petitioner w.e.f. 19.04.1999 and thereafter the Public Works Department assessed the rent @ Rs.4654/- per month and that was accepted by the head of the department and the head of the department never referred the issue to the District Level Committee for re-assessment

of the rent. It is also contended by the respondents that as per the Financial Power Rules, 2007, the Executive Engineer of Public Works Department has authority to assess the rent of a building and accordingly, the rent has been assessed and the decision of the Government communicated to the petitioner vide Annexure-5 and 8 i.e. letter dated 02.07.2009 and letter dated 21.12.2009. There is nothing wrong in the payment made by the department towards rent to the petitioner and hence, the writ petitioner should be dismissed.

4. It is an admitted position that a building belonged to the petitioner were hired by the respondents for special Land Acquisition Collector and for Halka Camp No.1. There is no dispute regarding the payment of rent @ Rs.2872/- per month for the period from 01.09.1999 to 25.08.1998. Thereafter the rent was provisionally fixed @ Rs.3000/- and the petitioner made an application to the District Magistrate to fix the fair rent and accordingly, the District Level Committee by Memo dated 12/15-9-2008 (Annexure-4 to the writ petition) fixed the rent @ Rs.4654/- + 15% enhancement per month for the period from 19.04.1999 to 18.04.2004.

5. To assess the rent of a building, the price of the land and the price of the building both are taken into

consideration. The Public Works Department can assess the price of the building but for assessment of the price of rent on which the building erected, the Revenue Department is the proper department to give the valuation of the land and perhaps for that purpose Memorandum dated 6th May, 1982 (Annexure-2 to the writ petition) was issued by the Govt. of Tripura in the Public Works Department. The said Memorandum reads as follows:-

*“No.F.17(23)-PWD(C)/ 64(II)
Government of Tripura,
Public Works Department
(W & C Section)*

Dated, Agartala, the 6 May, 1982

M E M O R A N D U M

Sub: Procedure regarding fixation of fair rent of houses to be hired by Government departments.

In supersession of all earlier orders in this regard, the Governor of Tripura has been pleased to lay down the following procedures for the purpose of fixation of fair rent of houses to be hired by the Government Departments—

(i) The requisition for evaluation of the building proposed to be hired should be sent by the Head of the Department concerned to the Executive Engineer and the District Magistrate and Collector concerned. The District Magistrate and Collector should arrange for evaluation of the land involved and furnish the same to the concerned Executive Engineer. The evaluation of the building should be done and the monthly rent of the building should be assessed F.R.45(b) by the Engineering Officers of the Public Works Deptt. The rent assessment statement should be forwarded by the Officers of the Public Works Department to the Head of the Department concerned. The power of the Engineering Officers of the Public Works Department for evaluation of the building including, cost of land shall be same as their powers for accord of technical sanctions to detailed estimates.

(ii) On receipt of standard rent assessment statement from the Public Works Department the Head of the Department should negotiate with the owner of the house. If the owner of the house is willing to let out the house at monthly rent not exceeding the rent

assessed by the Public Works Department and if the same is within the power of the Head of the Department the house should be hired by him.

(iii) If the owner of the house is not willing to let out the house at the rate of rents assessed by the Public Works Department and if the Head of the Department considers that hiring of the building is essential the case should be referred to the District Level Committee constituted as under for assessment of fair rent for the houses-

(a) District Magistrate & Collector of the District Concerned.

(b) The Executive Engineer stationed in the District Head quarter.

If there be more than one Executive Engineer stationed in District Head Quarters the executive Engineer who will represent the Public Works Department, in the committee will be decided by the Chief Engineer, Public Works department.

(iv) The District Level Committee shall have power to finalise the cases and issue the fair rent assessment certificate taking into consideration the prevailing market rate for letting out similar houses in the locality. Unless the prevailing market rate is higher the rent assessed by the Public Works department shall be the fair rent for the house.

*Sd/- T.S. Vedagiri
Secretary to the Government of
Tripura,
Public Works Department.”*

6. The respondents in their counter affidavit, did not challenge the above memorandum and nothing stated that the memorandum has been cancelled or modified. While that memorandum issued by the Govt. of Tripura was in force, any assessment made by the District Level Committee pursuant to that memorandum cannot be ignored while making payment of rent of a building hired by any Department of Govt. of Tripura. By issuing letter dated 02.07.2009 (Annexure-5 to the writ petition) and letter dated 21.12.2009(Annexure-8 to the writ petition) the State-

respondents, as it appears, stood on the assessment of rent made by the Public Works Department and refused to make payment as per the assessment made by the District Level Committee. While the District Level Committee is an expert body and a superior body for assessment of the rent of a private building hired by the Government, the assessment made by that Committee shall prevail over the assessment made by the Executive Engineer of Public Works Department. Memorandum dated 06.05.1982 shows that the Executive Engineer of the Public Works Department is also member of the District Level Committee and so while the District Magistrate and the Executive Engineer of Public Works Department jointly assessed the rent taking into consideration the price of the land as well as the price of the building, that assessment shall prevail over any separate assessment made only by the Executive Engineer of the Public Works Department.

7. Therefore, I am of considered opinion that the letter dated 02-07-2009 (Annexure-5 to the writ petition) and letter dated 21.12.2009 (Annexure-8 to the writ petition) issued by the Directorate of Land Records and Settlement and the Revenue Department of Govt. of Tripura cannot have any effect and those are set aside and quashed.

8. The petitioner shall be entitled to the rent at the rate assessed by the District Level Committee i.e. Memo dated 12/15-09-2008 (Annexure-4 to the writ petition) @ Rs.4,654/- plus 15% enhancement over the said amount for the period from 19.04.1999 to 18.04.2004.

9. With the above observation and direction, the writ petition stands disposed of.

JUDGE.