

**THE HIGH COURT OF TRIPURA
AGARTALA**

WP(C) NO.32 OF 2015

Shri Krishna Mohan Sarkar,
S/O Late Sagar Chandra Sarkar,
Residing at Village and
P.O. Utta Bharat Chandranagar,
P.S. Belonia, District-South Tripura.

..... *Petitioner*

- *Vs* -

1. The State of Tripura,
Represented by the Secretary,
Department of Revenue,
Government of Tripura,
New Capital Complex,
P.O. Kunjaban, P.S. East Agartala,
District-West Tripura.

2. The Sub-Divisional Magistrate,
Belonia,
P.O. & P.S. Belonia,
District-South Tripura.

3. The Gram Pradhan,
Village and P.O. Uttar Bharat Chandranagar,
P.S. Belonia, District-South Tripura.

..... *Respondents*

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

For the petitioner : Mr. A.K. Bhowmik, Sr. Advocate
Mr. A. Banik, Advocate

For the respondents : Mr. T. Dutta Majumder, G.A.

Date of hearing and
delivery of
Judgment & order : **10.07.2015**

Whether Fit for Reporting :

Yes	No
	✓

JUDGMENT & ORDER(ORAL)

Heard learned senior counsel, Mr. A.K. Bhowmik, assisted by learned counsel, Ms. A. Banik for the petitioner and learned G.A., Mr. T. Dutta Majumder for the respondents.

2. By filing this writ petition, the petitioner challenged order dated 28.11.2014 passed by respondent No.2 in Revenue Case No.08/Rev/2010 whereunder the allotment order of land measuring 0.20 acres, made in favour of the petitioner, has been cancelled.

3. It is the case of the petitioner that he instituted Title Suit No.22 of 2010 in the Court of Civil Judge, Jr. Division, Belonia, South Tripura, seeking declaration of the right, title and interest in the suit land described in the Schedule of the plaint and further praying for directing the defendants to hand over vacant possession of 'B' Schedule of land to him.

It is contended by the petitioner that the suit was decreed in his favour and thereafter the defendants preferred Title Appeal No.01 of 2013 and the suit was remanded back for decision afresh.

It is the case of the petitioner that while that title suit was pending before the trial Court, the respondent No.2 by

impugned order dated 28.11.2014 cancelled the order of allotment with a view to non-suit the petitioner.

4. Learned senior counsel, Mr. Bhowmik argued that while the civil suit was pending before a Court of competent jurisdiction involving the land in question, the allotment order should not have been cancelled by the respondent No.2 since the very basis of the suit of the petitioner was the order of allotment and the issue since pending before the civil Court the revenue Court should have that much of restraint from exercising jurisdiction under the TLR & LR Act.

5. Learned G.A. on the other hand submitted that the revenue proceeding for cancellation of the allotment order was also pending from the year 2010 and the petitioner also appeared in the revenue proceedings regarding cancellation of the allotment order and in due process after hearing both side the order has been passed by the SDM in exercise of his jurisdiction as conferred under the TLR & LR Act. The petitioner may challenge the order in the appropriate forum as per the procedure prescribed under the TLR & LR Act and the writ petition is not maintainable.

6. It is an undisputed fact that the petitioner instituted a title suit in the Court of Civil Judge, Jr. Division, Belonia involving the land which is the subject matter of the revenue proceedings. By the impugned order dated 28.11.2014 passed by SDM, Belonia in

case No.08/Rev/2010 the allotment of 0.20 acres of land has been cancelled and the case number itself shows that the revenue proceeding was pending from the year 2010. It appears that the title suit and the revenue proceeding were initiated simultaneously in the year 2010 and the petitioner appeared in the revenue proceedings also and the order was passed after hearing the petitioner. SDM was not a party in the civil suit. So the SDM in exercise of his power as conferred under the TLR & LR Act passed the order though the land in question is the subject matter of the civil suit. The petitioner has the scope to challenge the order in the appropriate superior forum as per the provision prescribed in TLR & LR Act. The petitioner did not prefer any appeal against the order under Section 93 of the TLR & LR Act whereas approached this Court with a writ petition. There were further avenues opened before the petitioner to challenge the order in the civil suit since the civil suit already pending before the Court of Civil Judge, Jr. Division, Belonia and the petitioner may approach the civil Court challenging the cancellation order of allotment also. The petitioner since neither availed the scope of preferring an appeal against the order nor challenged the order before the civil Court where the civil suit is pending rather has chosen to approach this Court by filing this writ petition, in my considered opinion the writ petition is not maintainable and hence stands dismissed.

7. The petitioner may be at liberty either to approach the appropriate appellate forum or the civil Court before which the civil suit is pending involving the land in question.

JUDGE