

**HIGH COURT OF TRIPURA
AGARTALA**

W.P(C) No.428/2018

Sri Anowar Hossain, son of Late Korban Ali, Of village-Purba Nalchar, PS-Melaghar, District-Sepahijala, Tripura.

-----Petitioner(s)

Versus

1. The State of Tripura, represented by the Secretary, Government of Tripura, Department of Education, Capital Complex, Agartala, Pin-799006.

2. The Director of School Education, Govt. of Tripura, Agartala, Pin-799006.

3. The Head Master, East Nalchar High School, P.O- East Nalchar, P.S-Melaghar, District- Sepahijala, Tripura.

-----Respondent(s)

For Petitioner (s) : Mr. Kohinoor N Bhattacharyya Advocate.

For Respondent(s) : Mr. Netai Choudhury, Govt. Advocate.

HON'BLE THE CHIEF JUSTICE MR. AJAY RASTOGI

Order

31/5/2018

Heard both the Id. counsel for the parties.

2. Indisputably, the recorded tenant of the subject land in question died on 24th May, 1992 and the present petitioner is claiming himself to be a legal representative of the recorded tenant.

3. There is nothing on record that the recorded tenant of the subject land in question in his life time ever raised any objection before concerned Govt. authorities as being alleged by the petitioner that the land has been encroached or illegally acquired by the Government to be used by educational institution.

4. The petitioner herein made complaint u/Sec.95 of the TLR & LR Act, 1960 for recording the name of the petitioner in the record of rights. The Id. District Magistrate & Collector, Sepahijala District, Bishramganj after taking note of materials which came on record sufficient reason has been assigned by him not to exercise his judicial discretion vested on him declined to accept his request while passing the order impugned dt.18th April, 2015.

5. It is informed to this court that a title suit has been filed by the petitioner which is pending before the Id. Civil Judge. Pending proceedings the present petitioner has approached this court seeking a mandamus against the State authorities to deliver vacant possession of the subject land measuring 0.03 acres of which he is claiming himself to be a lawful recorded tenant or the Government may pay compensation for the alleged acquisition of the subject land in question.

6. In the light of the order passed by the District Magistrate & Collector dt.18th April, 2015 what has been contended by the petitioner is without substance for the reason that he has not been able to prima facie established of his rights over the subject land in question which has been examined extensively by the District Magistrate & Collector on the rival submissions being recorded in the order impugned and that apart, it is a question of fact which cannot be looked into by this court under the limited scope of judicial review u/Art.226 of the Constitution of India, although the statutory remedy is available to

the petitioner under the law in questioning the order dt.18th April, 2015 in the appropriate proceeding.

7. That apart, title suit has been filed which is pending before the Id. Civil Judge is also a remedy availed by the petitioner where his grievance can be considered obviously after the matter being adjudicated on merits by the Id. Civil Judge.

8. I find no substance in the petition, which is, accordingly, dismissed. This court consider it appropriate to clarify that what has been observed is for the purpose of disposal of the present petition and the observations made may not be influenced/inhibited the authorities, if any, remedy is being availed by the petitioner questioning the order passed by the District Magistrate & Collector dt.18th April, 2015 under the law. No cost.

CHIEF JUSTICE

*Certificate : All corrections made in the judgment/
order have been incorporated in the judgment/order.*

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