

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.615/2018

Sri Monoranjan Das, S/O. Late Indra Mohan Das, Sonamura
Chowmuhani, Udaipur, Gomoti Tripura.

----Petitioner(s)

Versus

1. The State of Tripura, Represented by its Secretary Cum
Commissioner, Urban Development Department, Government of
Tripura, P.O.-Kunjaban, P.S.-New Capital Complex, Agartala, West
Tripura.

2. The Chairperson, Udaipur Municipal Council, P.O.-Udaipur, P.S.-
R.K. Pur, Gomoti Tripura.

3. The Executive Officer, Udaipur Municipal Council, P.O.-Udaipur,
P.S.-R.K. Pur, Gomoti Tripura.

----Respondent(s)

For Petitioner(s) : Mr. A.C. Bhowmik, Sr. Advocate,
Mr. D. Sarkar, Advocate.

For Respondent(s) : Mr. N. Choudhury, G.A.

HON'BLE THE CHIEF JUSTICE MR. AJAY RASTOGI

Order

29/06/2018

The instant petition has been filed questioning the validity of the final notice served upon the petitioner dt. 25.03.2017 (Annexure-1) to deposit the outstanding rent of Rs.1,08,000/- due up to November, 2016 to be paid in terms of the said notice by 31.03.2017. Indisputably, in terms of the notice served upon the petitioner not a penny has been deposited by him.

2. The brief facts of the case are that on his application, the Chairperson of Udaipur Municipal Council accorded provisional allotment of Open Air Restaurant in the Lake City Shopping Complex on a rental basis @ Rs.4,600/- per month excluding electric charges under memorandum dt.05.6.2014 and on execution of the agreement with a security deposit of Rs.30,000/-

being deposited within 7 days, the possession of the subject property was handed over to the petitioner to run open Air Restaurant but it reveals from the record that the petitioner has not paid the monthly rent, as agreed, of Rs.4,600/- per month for a sufficient long time.

3. The grievance of the petitioner is that at the time when the agreement was executed in June, 2014 and after he took possession of the subject property in question for running Open Air Restaurant, certain encroachment in the neighbouring areas had taken place and that has hampered the commercial viability to run Open Air Restaurant and attached certain other reasons which enable him to pay the monthly rent but is always coming forward to settle the outstanding rent in whatever the terms as agreed by the respondents but since no one has come to his rescue and considered his request and after the last notice came to be served still the petitioner tried his level best to settle but no one has looked into his grievance and under those circumstances, he was compelled to approach this court by filing of the instant writ petition.

4. After having heard the counsel for the petitioner for quite some time, this court is of the view that it is not advisable for this court to interfere in exercise of its inherent jurisdiction u/Art.226 of the Constitution of India being the disputed questions of fact and it is not the case of the petitioner that the final notice dt. 25.03.2017 served upon the petitioner impugned in the instant proceedings is in violation of any law or a provision under the

Municipal Act. At this stage, counsel for the petitioner submits that at least if his grievance is looked into on a representation being made by the competent authority that at least may give him a solace to hold that his grievance has been relooked by the authority in taking a decision which may be viable to the petitioner.

5. This court is not inclined to interfere in the matter in exercise of its jurisdiction u/Art.226 of the Constitution, at the same time considers appropriate to observe that if a representation is made by the petitioner, it is expected from the authority to sympathetically look into the matter and consider his grievance as permissible under the law in settling the outstanding dues which the petitioner at one time was unable to pay in the manner as considers appropriate.

6. The writ petition is disposed of with the observations made supra. No costs.

CHIEF JUSTICE

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

Pulak