

**HIGH COURT OF TRIPURA
AGARTALA**

Crl.Rev.P.No.61 of 2019

The Union of India,
represented by the Station Commander,
(Ministry of Defence), Military Station,
Lichubagan, Agartala, West Tripura,
PIN : 799010

.....Petitioner(s)

Versus

1. **Sri Sujit Ghosh,**
son of not known.
2. **Sri Parimal Debnath,**
son of not known.
3. **Sri Amal Debnath,**
son of not known.
4. **Smt. Kakali Debnath,**
daughter of not known.
5. **Smt. Madhumita Biswas,**
daughter of not known.
6. **Smt. Rekha Goala,**
daughter of not known.
7. **Sri Hiralal Goala,**
son of not known.
8. **Sri Manoj Debnath,**
son of not known.
9. **Sri Pradip Saha,**
son of not known.
10. **Smt. Anjali Saha,**
daughter of not known.

-all are residents of Village-Durjoynagar,
Opposite to St. Francis Xavier cathedral Church,
P.S. New Capital Complex, District : West Tripura.

.....Respondent(s)

For Petitioner(s)	:	Mr. H. Deb, Asst. S.G.
For Respondent(s)	:	Mr. R.G. Chakraborty, Adv.
		Mr. S. Das, Adv.

HON'BLE MR. JUSTICE S. TALAPATRA

Order

29/11/2019

Heard Mr. H. Deb, learned Asst. S.G. appearing for the petitioner as well as Mr. R.G. Chakraborty, learned counsel appearing for the respondent No.1 and Mr. S. Das, learned counsel appearing for the respondent No.4. None appears for the remaining respondents despite the order dated 26.11.2019 whereby it was observed that if there is no representation for the respondents No.2, 3 and 5 to 10, this case would be taken up for final decision.

2. By means of this petition filed under Section 397 of the Cr.P.C. read with Section 401 of the Cr.P.C., the order passed by the Additional District Magistrate, West Tripura, Agartala on 07.06.2019 under Section 133 of the Cr.P.C. in Case No.F.()/DM/W/JD4/2015/8399-400 has been challenged.

3. There is no dispute that existence of a road has been recorded in the Khatian No.13/4 of mouja. The said road pertains to the plot No.4946 (corresponding to old plot No.3575), plot No.4913 (corresponding to old plot No.3688/3682(part), plot No.4935 (corresponding to old plot No.3576), plot No.4936 (corresponding to old plot No.3558) and 4705 (corresponding to old plot No.3556). There is no dispute as well that the title of those plots remains with the Central Government (the Ministry of Defence). The petitioner intended to stop use of that road [as narrated above] by the member of the public and that act has resulted in a proceeding under Section 133 of the Cr.P.C. By the impugned order dated 07.06.2019 the Additional District Magistrate and Collector has observed, inter alia, as under:

"After patient hearing of both the parties and after considering the current ROR and the cadastral map of the concerned area and the fact that the road is being used by the local residents since long period, I am bound to pass this order that the STATUS QUO of the recorded road in use (current ROR/recorded road) should be maintained by both the parties without any condition with advice that if any party is not satisfied with the Government record should move to the court as per Law."

4. Mr. H. Deb, learned Asst. S.G. appearing for the petitioner has submitted that the land of the road belongs to the Ministry of Defence, Government of Tripura and for security reason, this road cannot be allowed to be used by the members of the public. For that reason, the army intended to block the road to avert security perception. On such obstruction, some people from the locality filed the complaint to launch the proceeding under Section 133 of the Cr.P.C. in the court of the District Magistrate and Collector, West Tripura.

According to Mr. Deb, learned Asst. S.G., there exists no road as such, and wrongly, those plots have been shown as the part of the land as recorded in the said khatian as well as in the cadastral survey map. Those are wrong entries.

5. But Mr. R.G. Chakraborty, learned counsel appearing for the respondent No.1 and Mr. S. Das, learned counsel learned counsel appearing for the respondent No.4 respectively has submitted that these are very old road and if the road were allowed to be closed, a good number of people would not be able to come to the main road and they will be completely deprived of their right of easement which has been created by necessity, as there is no other alternative road. Since, Mr. Deb, learned Asst. S.G. has very categorically questioned the recording by the revenue authority. Even, at the instance of the petitioner a proceeding under Section 95 of the TLR & LR Act has been initiated and such proceeding is still awaited for decision.

6. Having perused the records as produced before this court, it is felt necessary to observe that the said proceeding drawn under Section 95 of the TLR & LR Act for the substantive ends of justice be drawn to the logical end to avert any untoward incident. Till the record of road exists, it cannot be stated that the impugned order suffers from any infirmity and as such, this petition stands dismissed.

7. Before parting with the records, the District Collector, West Tripura, Agartala is directed by this court to complete the proceeding under Section 95 of the TLR & LR Act, 1960 within six weeks from the day when the copy of this order be furnished before them. If necessary, a local survey be carried out. That apart, the District Collector may initiate conciliation to resolve the dispute amicably.

There shall be no order as to costs.

A copy of this order be furnished to the counsel for the parties.

सत्यमेव जयते

JUDGE