

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.117/2023

Smt. Chamina Bibi

.....Petitioner(s).

V E R S U S

The State of Tripura & others

.....Respondent(s).

For Petitioner(s) : Mr. Sankar Bhattacharjee, Advocate,
Mr. Subendu Noatia, Advocate.

For Respondent(s) : Mr. K. De, Addl. G.A.

HON'BLE THE CHIEF JUSTICE (ACTING)

Order

28/02/2023

Heard Mr. Sankar Bhattacharjee, learned counsel appearing for the petitioner. Also heard Mr. K. De, learned Addl. Government Advocate appearing for the respondents-State.

2. This instant writ petition has been filed under Article 226 of the Constitution of India seeking a direction to the respondents for cancellation of the fake survival certificate dated 08.10.2009.

3. The grievance of the petitioner, in brief, is that the petitioner and her husband Anu Miah had 1 acre 23 satak of land and during his lifetime, Anu Miah brought two persons namely Hanif Miah

and Juwel Hossain to take care of their land since the petitioner and her husband had no children. After the death of Anu Miah, petitioner obtained a survival certificate where she was shown as the only survivor of deceased Anu Miah. But Hanif Miah and Juwel Hossain in connivance with the staff of SDM, Sonamura obtained another fake survival certificate dated 08.10.2009 showing both of them as survivors of deceased Anu Miah along with the petitioner. After obtaining the fake survival certificate, both Hanif and Juwel recorded their names in the record of rights in respect of the land of deceased Anu Miah. Thereafter, the petitioner through her cousin brother submitted an application on 19.07.2021 to the SDM, Sonamura for cancellation of the said fake survival certificate. Since no action was taken by the authority, petitioner had given two reminders for early disposal of her prayer. Subsequently, a proceeding was drawn up by the SDM, Sonamura and hearing notices were served but the proceedings did not advance any further. Being aggrieved, the petitioner has preferred this writ petition seeking a direction to the respondents for cancellation of the fake survival certificate dated 08.10.2009. Hence, this case.

4. Petitioner has prayed for the following reliefs:

"(I) Issue rule NISI calling upon the respondents calling upon each of them to show cause as to why a writ/Writs and/or Order/Orders, Direction/Directions in the nature of mandamus and/or any other Writ/Writs in the nature thereof shall not be issued directing the respondents to dispose of the application dated 19/07/2021 (Annexure-4 to the writ petition) submitted by the petitioners to the SDM Sonamura for cancellation of the said fake survival certificate within the time fixed by this Hon'ble Court.

AND/OR

(II) Issue rule NISI calling upon the respondents calling upon each of them to show cause as to why a certiorari and/or any other writ/writs, Order/Orders in the nature thereof calling for the entire records pertaining to the application dated 19/07/2021 (Annexure-4 to the writ petition) for cancellation of the fake survival certificate Dated 08/10/2009.

AND/OR

(III) After hearing the parties may be pleased to make the Rule absolute;

AND/OR

(IV) Pass such further order and/or direction as Your Lordships may deem fit and proper for the ends and in the interest of justice."

5. While making the submissions, Mr. Sankar Bhattacharjee, learned counsel appearing for the petitioner, has drawn attention of this Court to the hearing notices dated 09.03.2022 and 29.03.2022

respectively issued by the Sub-Divisional Magistrate, Sonamura, Sepahijala District (respondent No.3 herein) and in pursuance of the said hearing notices, it appears that the SDM, Sonamura has conducted the hearing and he is yet to pass a final decision.

6. In view of the same, without expressing any opinion on merits, the present writ petition is disposed of directing the Sub-Divisional Magistrate, Sonamura, Sepahijala District (respondent No.3 herein) to decide the matter which is pending before him within a period of one month from the date of receipt of the copy of this order.

7. With the above direction, the writ petition is disposed of.
Pending application(s), if any, also stands disposed of.

CHIEF JUSTICE (ACTING)

Pulak