

HIGH COURT OF TRIPURA
AGARTALA
WP(C) No. 373 of 2025

Peerless Tea & Industries Limited,
240 B AJC Bose Road, Kolkata 700020
Represented by Sri Debasis Dey, S/o- Late Radha Nath Dey,
Resident of Domjur, Jamadarpur, Domjur, Haora, West Bengal-
711405. **Petitioner**

Versus

- 1. The State of Tripura,**
Service through the Chief Secretary, having his office at Capital
Complex, Agartala, West Tripura.
- 2. The Secretary to the Government to Tripura,**
Department of Industries and Commerce, having his office at
Khejur Bagan, Agartala, West Tripura.
- 3. The Managing Director,**
Tripura Tea Development Corporation
Having its office at Lake Chowmuhani, Agartala.
..... **Respondents.**

For the Petitioner(s)	:	Mr. BN Majumder, Sr. Advocate. Mr. S. Sarkar, Advocate. Mr. K. Deb, Advocate.
For the Respondent(s)	:	Mr. K. De, Addl.G.A.
Date of hearing	:	17.07.2025.
Date of delivery of Judgment & Order	:	01/08/2025.
Whether fit for reporting	:	YES

BEFORE
HON'BLE JUSTICE DR. T. AMARNATH GOUD
J U D G M E N T & O R D E R

[1] Heard Mr. B N Majumder, learned sr. counsel assisted by Mr. S. Sarkar, learned counsel appearing for the petitioner. Also heard Mr. K. De, learned Addl. G.A. appearing for the respondent-State.

[2] This present Writ Petition has been filed under Article 226 of the Constitution of India, seeking the following reliefs :-

“A) Issue a writ of mandamus or any other appropriate writ, order, or direction directing the Respondents to comply with direction passed in Paragraph No. 6 of the Judgment dated 27-09-2016, in WP (C) No. 257/16

(B) Pass a direction upon the Respondents to pay Rs. 40,51,439/- with an interest @ 18% till the payment is made, to the Petitioner.

C) Pass any other order(s) as deemed fit and proper for the fair ends of justice.”

[3] The brief facts of the case is that, the petitioner Peerless Tea & Industry Limited, owns the Fatikchherra Tea Estate located in the State of Tripura. The management of the said Fatikchherra Tea Estate was taken over by the State Government of Tripura and entrusted to the Tripura Tea Development Corporation Limited by notification dated 13.11.86 issued under the Tripura Tea Companies (Taking over of Management of Certain Tea Units), Act 1986. This taken over was governed by the Tripura Tea Company (Taking Over of Management of Certain Tea Units) Acts, and its rules.

[4] Notably, the acquisition only suspended the petitioner's user rights, vesting the management of the tea units in the State Government under the said Act (TTC Act), which was initially an ordinance. As per the proviso to Section 3(3) of the TTC Act, the State Government or Custodian is required to pay annual compensation, as determined by the State Government, for suspending user rights. However, despite this obligation, the Respondent Authorities failed to calculate and disburse the compensation to the affected owners of the Tea Units. Rather they were asking for unjustified dues from the Writ Petitioner.

[5] Thereafter, multiple Court orders were passed for payment of compensation with interest to the petitioner but the respondents failed to comply, instead issuing unjustified demands and causing prolonged litigation. At last, by a writ petition under Article 226 of the Constitution of India the petitioner filed WP (Civil Rule) No. 142 of 1986 and was disposed of on 20.01.2000.

[6] That despite the order dated 20.01.2000 the respondents failed to comply and further delayed the compensation disbursement. Thereafter, by a notification introduced a revised calculation method making the calculation wholly irrational and excessive and respondent demanded petitioner to pay Rs. 1,41,59,998/-.

[7] Being aggrieved, the petitioner filed another writ petition vide No. WP (C) No. 401 of 2004 seeking rightful compensation, wherein the Hon'ble High Court passed an order dated 08.05.2015 directing the respondents to ensure just compensation in terms of section 3 and section 5 of the said Act. It was also directed to appoint a valuer but its appointment was a clear violation of Hon'ble Court's order as the same was not a chartered valuer.

[8] The respondent authorities failed to implement the orders and also failed to include the additional 18% annual interest on the compensation from 1986 till the management of the Fatickchherra tea estate was with the State Government. The petitioner herein, thereafter filed W.P (c) No. 257 of 2016 seeking directions from the Hon'ble High Court to prevent the respondents from proceedings with the inadequate compensation.

[9] Meanwhile, the respondents filed Money Suit against the petitioner vide No. 27 of 2006 before the Civil Judge, Senior Division, Court No.1, West Tripura, Agartala seeking recovery of Rs. 1,41, 59, 998/- in pursuance of revised compensation. The said suit was decreed with cost as the defendant (petitioner herein) stood *ex-parte*. The said *ex-parte* decree was passed on 19.09.2009. The Tripura Tea Development Corporation (respondent No.3 herein) filed an execution petition vide Ex (M) No. 02 of 2010. At that juncture, the petitioner herein Peerless Tea

& Industries Limited filed FAO of 1 of 2012 before the High Court and the same stood dismissed by a judgment dated 22.02.2016.

[10] The petitioner, in the meanwhile, made attempts for getting compensation determined. The petitioner herein for fixing just compensation under section 3 and 5 of “The Tripura Tea Companies (Taking Over of Management of Certain Tea Units) Act, 1986,” filed WP(C) No. 401 of 2004 on the file of Gauhati High Court, Agartala Bench and the same was disposed on 08.05.2015 in terms of the order passed in Civil Rule WP (Civil Rule) No. 142 of 1986 dated 20th January, 2000. The relevant portion of the aforesaid judgment passed on 08.05.2015 is extracted hereunder :-

“25. It is again made clear that, the profit and loss account during the period of suspension of the management will have no impact on determining the compensation as stated. On the basis of the assessment that would be made, the State Government shall pay the compensation within 3(three) months thereafter. If such payment is not paid within three months as stipulated, they shall have to pay Interest @ 18% in terms of the order dated 28.01.2000 delivered in Civil Rule No.142 of 1986 by the Gauhati High Court.

26. With this observation and direction this writ petition stands allowed. However, there shall be no order as to costs.”

[11] The final compensation was determined at Rs. 22, 63, 051/- by a letter on 9/11/2015/. Aggrieved thereby, the petitioner asking to fix an adequate compensation sent a letter to the respondents on 16.11.2015. To which the respondents have replied through their letter dated 05.12.2015, not being satisfied by the said letter the petitioner once again addressed a letter dated 09. 12.2015 to the State-respondents and since,

there was no response from the State-respondents, at that Juncture the petitioner filed WP (c) No. 257 of 2016 in High Court of Tripura seeking to restrain the respondents in fixing inadequate compensation. The said writ petition was disposed on 27.09.2016 directing the respondents to pay 40, 51, 439/-.

[12] Aggrieved by the same, the Tripura Tea Development Corporation Limited filed Writ Appeal no. 02 of 2017 and State filed Writ Appeal No. 11 of 2017. Both these Writ Appeals were heard together and by way of common judgment dated 04.12.2020 the learned Division Bench allowed the same. It is pertinent to mention that the Peerless Tea company herein was called absent on number of occasions.

[13] The petitioner herein preferred a review of the above order vide Review Petition No. 62 of 2022 and the same was dismissed by the Division Bench of this Court dated 16.03.2023. Again an IA No. 1 of 2023 is filed by the petitioner in review petition to recall and set aside the order dated 16.03.2023 and the same was also dismissed on 30.08.2023.

[14] Mr. BN Majumder, learned senior counsel appearing for the petitioner contended that the orders in Writ Appeals being WA No. 02 of 2017 and WA. No. 11 of 2017 have expunged para 7 of the Judgment in writ petition i.e. WP(C) No. 257 of 2016 observing that if para 7 is

continued to exist in the judgment that would act as a stay of money recovery suit and execution proceedings and would frustrate the judgment and decree in money suit.

[15] He further submits that, however para 6 continues to exist and therefore, the amount directed in para 6 by the learned Single Judge in WP (C) No. 257 of 2016 dated 27.09.2016 needs to be implemented by the respondents in making the aforesaid amount to be paid to the writ petitioner. He, therefore, submits that the present writ petition is filed seeking relief against the respondents to comply with the direction passed in para 6 of the judgment in WP (c) No. 257 of 2016 dated 27.09.2016 and to pay Rs. 40,51,439/- with interest @ 18 % till payment is made from that date onwards.

[16] Mr. BN Majumder learned senior counsel in continuation of his argument relied on the following Judgments which are as under :-

1. **Devaki Nandan Prasad Vs. State of Bihar and others** reported in (1983) 4 SCC 20.

2. **M/s Karnataka State Forest Industries Corporation vs. M/s . Indian Rocks with M/s Karnataka State Forest Industries Corporation V. State of Karnataka and Ors.** Reported in 2008 AIR SCW 7883,

3. Kapildeo Prasad Sah and others V. State of Bihar, reported in **1999AIR SCW 3182**.

4. The Commissioner, Karnataka Housing Board vs. C. Muddaiah. Reported in **2007 AIR SCW 5577**,

And prayed to allow the writ and grant the relief prayed.

[17] Mr. K. De, learned Addl. GA. appearing for the respondent-State submitted that the petitioner is not entitled for any relief in the present writ petition and this writ petition is devoid of merit and the same is not maintainable and is hit by the inordinate delay and *laches* and by filing present writ the petitioner cannot seek execution of a writ order dated 27.09.2016. This writ cannot work as execution proceedings. The petitioner had remedy under Contempts of Courts Act.

[18] He further contended that by way of the present writ petition the petitioner herein cannot seek and convert the present writ into an execution petition filing in the year 2025 to implement the orders of 2016. He further submitted that to circumvent the proceedings of execution under money recovery judgment and decree as the petitioner is a judgment debtor, he is finding evasive methods. He also submitted that writ lies only in the event (i) Where there is a violation of principles of

natural justice or fundamental rights (ii) where an order in a proceeding is wholly without jurisdiction or (iii) where the vires of an Act is challenged.

In support of his arguments, he placed reliance on the Judgment of the Hon'ble Supreme Court

1. ***M/s Tamil Nadu Cements Corporation Limited V. Micro and Small Enterprises Facilitation Council and Another*** reported in ***2025 Supreme(SC) 137***,
2. ***National Highways Authority of India V. Sheetal Jaidev Vade and Others*** reported in ***(2022)16 SCC 391*** and
3. ***Haryana Urban Development Authority v. Anupama Patnaik*** reported in ***1996 Legal Eagle (SC) 1570***.

Therefore, he prayed to dismiss the present writ petition.

[19] Heard both sides and perused the records.

[20] Since, the respondents have not paid the compensation the petitioner preferred WP No. (civil rule) 142 of 1986 before the Gauhati High Court challenging the validity of the ordinance. The Court while upholding the validity of the ordinance has considered the grievance of the petitioner with regard to the payment of compensation and on 20th January 2000 affirmed the petitioner for compensation and directed under section 5 of the said Act to determine and to pay the compensation.

[21] The Government constituted a committee and as per the committee's report no amount need to be paid to the petitioner and accordingly the government did not pay. In turn the respondents directed the petitioner by letter dated 14.02.2001 to pay a sum of Rs. 1,41,59,998/- as the said amount is said to be recovered from the petitioner.

[22] According to the Government after taking over the management of tea estate the Government had made substantial investment to the tune of Rs. 1.90 crores along with interest @ 12% per annum on such investment which came to Rs. 22.88 lakhs, (rounded off), the total sum is Rs. 2.13 crores payable by the petitioner to the respondents as against the sale proceeds of the harvest of Rs. 72.04 lakhs, the difference is Rs. 1,41, 59,998/- and the same is recoverable from the petitioner.

[23] Admittedly, respondent No.3 has took over the possession of Fatikcherra Tea garden by invoking the sections 3 and 5 of the Tripura Tea Companies (Taking over Management of Certain Tea Units) Act, 1986 and to pay the compensation for suspending the user's right, the petitioner once again filed WP (C) 401 of 2004 in the High Court of Gauhati and the same was disposed of by an order dated 8.05.2015 to fix the just compensation affirming the order in WP (Civil Rule) 142 of 1986. Finally, compensation was determined by the respondents on

09.11.2015 at Rs. 22,63,051/-. Not being satisfied the petitioner made a request by a letter dated 16.11.2015 for adequate compensation and the Government has replied on 5.12.2015. Once again, being dissatisfied to the reply the petitioner sent another letter dated 9.12.2015, to which there was no response from the respondents.

[24] Since, the said issue has not been dealt with in the earlier round of litigation and the compensation already determined and directed by this Court to pay, is the subject matter which falls for consideration in this present petition.

[25] The respondents filed Money Suit vide No. 27 of 2006 on the file of Civil Judge, Senior Division, West Tripura for recovery of Rs. 1,41,59,998/-. and the said suit filed by TTDC was decreed with cost.

[26] The said *ex-parte* decree was passed on 19.09. 2009. Later, the TTDC decree holder filed execution petition vide No. EX(M) No.2 of 2010. At that juncture, the petitioner herein Peerless Tea & Industries Limited filed FAO 01 of 2012 before the Hon'ble Court on the file High Court of Tripura and the same was dismissed on 22.02.2016.

[27] On the other hand WP(C) No. 257 of 2016 is filed by the petitioner and the said writ petition was disposed of 27. 09.2016 directing the respondents to pay Rs. 40,51,439/-, the said judgment which gains

importance for deciding the case, the relevant portion of the aforesaid judgment is extracted as under :

“[6] Having this statement taken into notice, this Court is of the view that the said deduction is unsustainable and accordingly the petitioner shall be entitled to compensation for the said period when this Tea Estate was under the management of the respondent No. 3 to the extent of Rs. 40,51,439/-. If the said amount is not paid within 3 months from the day of receipt of a copy of the judgment from the petitioner, the said amount shall carry interest @ 18% till the payment is made.

[7] In view of the observations made above, this Court is of the considered view that the petitioner is not liable to pay any further sum to the respondents. The petitioner may utilize this observation in their defence in the execution proceeding as reportedly set in terms of the judgment and decree passed in Money Suit No. 27 of 2006.

With these observations and direction, this writ petition stands allowed. There shall be no order as to costs.”

[28] Aggrieved by the same, TTDC filed Writ Appeal No. 2 of 2017 and State preferred Writ Appeal No. 11 of 2017, both writ appeals were heard and decided by a common judgment dated 4.12.2020 and the same was allowed by the Hon'ble Division Bench of this Court,.

[29] It is pertinent to note that the Division Bench has expunged para 7 from the judgment of the learned single judge in writ petition no. 257 of 2016, later review petition no. 62 of 2022 which was filed by the petitioner herein was dismissed by order dated 16.03.2023. Later on, petitioner filed IA 1 of 2023 to revive the same and set aside the order dated 16.03.2023 but the same was dismissed by order dated 30.08. 2023.

[30] On a fair reading and examining the prayer sought by the petitioner in Writ Petition (civil rule) No. 142 of 1986, Writ Petition 401 of 2004 and WP (C) 257 of 2016 are almost same i.e. for seeking compensation and petitioner has been granted relief.

[31] That, on attaining the finality of WP(C) No. 257 of 2016 order dated 27. 09.2016, the petitioner has not chosen to take steps against the respondents for non-compliance of the order dated 27.09.2016, despite the Writ Appeals were disposed of by order dated 04.12.2020. The attempts made in the form of review in filing the review petition no. 62 of 2022 dismissed on 16. 03.2023 and again IA no. 1 of 2023 to recall and set aside the order which stood again dismissed on 30.08. 2023 appear to be adopting different means to claim relief.

[32] The Division Bench in Writ Appeals opined that for multiple reasons in WP(C) No. 257 of 2016, learned single judge was not justified in making the observation in favour of Peerless Tea Company, that the company can defend its case before execution by referring the judgment and order in WP No. 257 of 2016. As observed by the Division Bench that both the proceedings which were considered by the Division Bench were on different set of facts, on one hand the respondents are claiming Rs. 1,41, 59,998/- from the petitioner and on the other hand, the petitioner claiming Rs.40 ,51, 439/- from the respondents. Though, this claims and counter claims are disputed questions of facts on different set of facts, at this juncture it is not for this Court to express its opinion on the same as the said *lis* has already been decided in the earlier round of litigation.

[33] As seen from the prayers of WP (Civil Rule) 142 of 1986 , WP(C) No.401of 2004 and WP(C) No. 257 of 2016 the relief sought as stated supra are almost identical.

[34] The Apex Court in:-

1. State of Orissa and Another vs. Laxmi Narayan Das(Dead) through Legal Representative and Others reported in (2023) 15 SCC 273, the relevant portion is quoted as under:-

"28. In State of J&K v. R.K. Zalpuri¹², this Court considered the issue regarding delay and laches while initiating a dispute before the court. It was opined that the issue sought to be raised by the petitioners therein was not required to be addressed on merits on account of delay and laches. The relevant paras thereof are extracted below: (SCC p. 612, paras 27-28)

"27. The grievance agitated by the respondent did not deserve to be addressed on merits, for doctrine of delay and laches had already visited his claim like the chill of death which does not spare anyone even the one who fosters the idea and nurtures the attitude that he can sleep to avoid death and eventually proclaim "deo gratias" "thanks to God".

28. Another aspect needs to be stated. A writ court while deciding a writ petition is required to remain alive to the nature of the claim and the unexplained delay on the part of the writ petitioner. Stale claims are not to be adjudicated unless non-interference would cause grave injustice. The present case, needless to emphasise, did not justify adjudication. It deserved to be thrown overboard at the very threshold, for the writ petitioner had accepted the order of dismissal for half a decade and cultivated the feeling that he could freeze time and forever remain in the realm of constant present."

32. 32. The issue of delay and laches was considered by this Court in Union of India v. N. Murugesan¹⁷. Therein it was observed that a neglect on the part of a party to do an act which law requires must stand in his way for getting the relief or remedy. The court laid down two essential factors ie. first, the length of the delay and second, the developments during the intervening period. Delay in availing the remedy would amount to waiver of such right. Relevant paras 20 to 22 of the abovementioned case are extracted below: (SCC pp. 37-38)

"20. The principles governing delay, laches, and acquiescence are overlapping and interconnected on many occasions. However, they have their distinct characters and distinct elements. One can say that delay is the genus to which laches and acquiescence are species. Similarly, laches might be called a genus to a species by name acquiescence. However, there may be a case where acquiescence is involved, but not laches. These principles are common law principles, and perhaps one could identify that these principles find place in various statutes which restrict the period of limitation and create non-consideration of condonation in certain circumstances. They are bound to be applied by way of practice requiring prudence of the court than of a strict application of law. The underlying principle governing these concepts would be one of estoppel. The question of prejudice is also an important issue to be taken note of by the court.

21. The word "laches" is derived from the French language meaning "remissness and slackness". It thus involves unreasonable delay or negligence in pursuing a claim involving an equitable relief while causing

prejudice to the other party. It is neglect on the part of a party to do an act which law requires while asserting a right, and therefore, must stand in the way of the party getting relief or remedy.

22. Two essential factors to be seen are the length of the delay and the nature of acts done during the interval. As stated, it would also involve acquiescence on the part of the party approaching the court apart from the change in position in the interregnum. Therefore, it would be unjustifiable for a Court of Equity to confer a remedy on a party who knocks its doors when his acts would indicate a waiver of such a right. By his conduct, he has put the other party in a particular position, and therefore, it would be unreasonable to facilitate a challenge before the court. Thus, a man responsible for his conduct on equity is not expected to be allowed to avail a remedy."

2. Assistant Commissioner of State Tax and Others Vs. Commercial Steel Limited reported in (2022) 16 SCC 447. The relevant portion is quoted hereunder:-

"10. The respondent had a statutory remedy under Section 107. Instead of availing of the remedy, the respondent instituted a petition under Article 226. The existence of an alternative remedy is not an absolute bar to the maintainability of a writ petition under Article 226 of the Constitution. But a writ petition can be entertained in exceptional circumstances where there is:
(i) a breach of fundamental rights;
(ii) a violation of the principles of natural justice;
(iii) an excess of jurisdiction; or
(iv) a challenge to the vires of the statute or delegated legislation."

[35] It is seen from the pleading and the record that the petitioner has not chosen to avail remedies under the law diligently and after prolonged period of time, the petitioner once again is before this Court seeking to implement the order passed in WP(C) No. 257 of 2016 dated 27.09.2016 which is hit by delay and laches and the petitioner has not approached this Court with clean hands as decided by the Hon'ble Supreme Court in **State of Orissa and Another vs. Laxmi Narayan Das(Dead) through Legal Representative (supra)**. The relevant portion is quoted hereunder :-

"28. In State of J&K v. R.K. Zalpuri¹², this Court considered the issue regarding delay and laches while initiating a dispute before the court. It was opined that the issue sought to be raised by the petitioners therein was not required to be addressed on merits on account of delay and laches. The relevant paras thereof are extracted below: (SCC p. 612, paras 27-28)

"27. The grievance agitated by the respondent did not deserve to be addressed on merits, for doctrine of delay and laches had already visited his claim like the chill of death which does not spare anyone even the one who fosters the idea and nurtures the attitude that he can sleep to avoid death and eventually proclaim "deo gratias" "thanks to God".

28. Another aspect needs to be stated. A writ court while deciding a writ petition is required to remain alive to the nature of the claim and the unexplained delay on the part of the writ petitioner. Stale claims are not to be adjudicated unless non-interference would cause grave injustice. The present case, needless to emphasise, did not justify adjudication. It deserved to be thrown overboard at the very threshold, for the writ petitioner had accepted the order of dismissal for half a decade and cultivated the feeling that he could freeze time and forever remain in the realm of constant present."

32. 32. The issue of delay and laches was considered by this Court in *Union of India v. N. Murugesan*¹⁷. Therein it was observed that a neglect on the part of a party to do an act which law requires must stand in his way for getting the relief or remedy. The court laid down two essential factors ie. first, the length of the delay and second, the developments during the intervening period. Delay in availing the remedy would amount to waiver of such right. Relevant paras 20 to 22 of the abovementioned case are extracted below: (SCC pp. 37-38)

"20. The principles governing delay, laches, and acquiescence are overlapping and interconnected on many occasions. However, they have their distinct characters and distinct elements. One can say that delay is the genus to which laches and acquiescence are species. Similarly, laches might be called a genus to a species by name acquiescence. However, there may be a case where acquiescence is involved, but not laches. These principles are common law principles, and perhaps one could identify that these principles find place in various statutes which restrict the period of limitation and create non-consideration of condonation in certain circumstances. They are bound to be applied by way of practice requiring prudence of the court than of a strict application of law. The underlying principle governing these concepts would be one of estoppel. The question of prejudice is also an important issue to be taken note of by the court.

21. The word "laches" is derived from the French language meaning "remissness and slackness". It thus involves unreasonable delay or negligence in pursuing a claim involving an equitable relief while causing prejudice to the other party. It is neglect on the part of a party to do an act which law requires while asserting a right, and therefore, must stand in the way of the party getting relief or remedy.

22. Two essential factors to be seen are the length of the delay and the nature of acts done during the interval. As stated, it would also involve acquiescence on the part of the party approaching the court apart from the change in position in the interregnum. Therefore, it would be unjustifiable for a Court of Equity to confer a remedy on a party who knocks its doors when his acts would indicate a waiver of such a right. By his conduct, he has put the other party in a particular position, and therefore, it would be unreasonable to facilitate a challenge before the court. Thus, a man responsible for his conduct on equity is not expected to be allowed to avail a remedy."

[36] The petitioner has not chosen to invoke contempt proceedings for compliance with the orders. And the petitioner herein did not avail legal remedies. That apart in the affidavit filed in the present writ petition there is no averment explaining the cogent reason for filing the present writ petition, at this juncture with inordinate delay and the action of the petitioner in initiating the present writ petition as an

execution writ to implement the earlier writ petition with inordinate delay also cannot be considered in view of the above judgment of the Supreme Court of India.

[37] In fact, the doctrine of constructive *res-judicata* attracts the present writ petition and the same operates against the petitioner. In this regard, the relevant judgment of the Hon'ble Apex Court is quoted along with the relevant portions titled as **Chief Engineer, Water Resources Department and Others Vs. Rattan India Power Limited through its Director and Others** reported in **(2023) 19 SCC 410**.

“Para 24. The High Court merely directed the authority concerned to take a weeks, 1, then decision on the representations made by Respondent 1 within a period of eight Respondent 1 could take such measures in law to seek a refund. It is evident that the High Court refrained from granting a stay on the payment of the second instalment. In compliance with the direction of the High Court, the Government considered the matter and it rejected the representation on 29-1-2013. In than view of the matter, we are of the opinion that the High Court committed error in entertaining a fresh writ petition, which effectively claimed the same reliefs as of the previous one. The High Court committed a mistake in not only entertaining the writ petition, but also in supplanting its view that of the contract.”

[38] This Court is conscious of the fact that the powers conferred in writ jurisdiction though are wider, but the same needs to be exercised sparingly under extraordinary circumstances.

[39] As seen from the record and pleadings, no where the petitioner has stated that he is the owner of the said tea garden at Fatikcherra and this Court has also noticed that *prima facie* the petitioner has not established his title and the right to claim compensation, and as to how he became the possessor of Fatikcherra tea gardens. However,

without going into the said issue, this Court is considering the other aspects of the facts which are already dealt and available on record.

[40] In the absence of any title deed or flow of title not being placed on record, if a person claims any compensation under the pretext that his land has been acquired, unless there is any proper established title, the said person is not entitled for any compensation. Moreso, if a person claims for the compensation of the plantation of the land, in which he enters unauthorizedly, he becomes a trespasser and for any plantation made upon the land, he is not entitled to claim any compensation and has no authority to raise any plantation or to develop the property or to change the nature of the land as the said action is unauthorized.

[41] As stated supra, once a compensation is determined there cannot be a further letter seeking adequate compensation but appropriate provisions of law to approach appropriate forums needs to be invoked. Since, decretal amount has already been determined in Money Suit, no further direction contrary to the said decree be passed ignoring the same. There cannot be any relief to restrain in fixing inadequate compensation. Compensation cannot be granted as desired by the petitioner. This is a practice adopted by the petitioner in filing case after case for same relief attracts *res judicata*. Moreover, in Money Suit, the recovery of amount decree for Rs.1,41,59,998/- suit amount excluding interest is recoverable

from the petitioner herein. That petitioner without paying the decretal amount again and again approaching this Court by filing writ after writ for same relief by twisting prayers cannot be appreciated. He has not approached this Court with clean hands.

[42] For the discussion made above, this Court is not inclined to grant relief as prayed and the writ petition is liable to be dismissed.

[43] Accordingly, the writ petition is dismissed.

[44] As a sequel, miscellaneous application(s), pending if any, shall stand closed.

JUDGE

Paritosh

SABYASACHI GHOSH
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