

IN THE HIGH COURT AT CALCUTTA
[CIRCUIT BENCH AT PORT BLAIR]

WPA/546/2024

The President, Indian Christian Fellowship Association

Vs.

The Lieutenant Governor and others

Mr. K. Vijay Kumar ... for the petitioner

Ms. Babita Das ... for the respondents

07.07.2025
[Manoj]
Item No.2

The petitioner challenges an order dated October 8, 2023, passed by the Tehsildar, Ferrargunj. The relevant portion of the order is quoted below:

“In this regard, a report was called for from the Area Revenue Field Staff, which reveals that as per records, previously, the land bearing Survey No. 75, measuring 2.00 hectares, situated at Badmash Pahar village and classified as 'Hilly', was recorded in favour of the President, Indian Christian Fellowship Association.

During the year 2022, an area of 1.4360 hectares out of the total 2.00 hectares from Survey No. 75 was sold to Mithlesh Kumari and 69 others (through Nabo Roy), and the remaining area of 0.5640 hectares is presently recorded in favour of the President, Indian Christian Fellowship Association.

It is further reported that the then revenue staff intimated that, at the time of issuance of the No Dues and Non-Encumbrance Certificate, the excess area was surrendered by the President, Indian Christian Fellowship Association. However, after registration, the Church Committee again occupied the excess area.

Now, the Revenue Department has demarcated the recorded area of Survey No. 75, separated the excess area measuring 0.3044 hectares, and has again taken over the excess land, including 15 semi-RCC structures. The said structures were sealed on 06/11/2023.

The detailed report of the Revenue Field Staff, including the demarcation report and map, is enclosed herewith.

Submitted, please.”

Learned advocate appearing for the petitioner submits that the petitioner purchased Survey No. 75, measuring 2.00 hectares at Badmash Pahar village, in the year 2005 by a registered sale deed from the erstwhile owner. Subsequently, he sold a portion of the land, measuring 1.4360 hectares, to different persons.

The remaining portion of the plot is still owned and possessed by the petitioner, and the structures in question have been raised on that part of the land.

Relying upon the judgment of this Circuit Bench in **WPA/507/2024 (Smt. Fulmani Thomas vs. The Deputy Commissioner and Another)**, learned advocate for the petitioner argues that the concerned Tehsildar had no jurisdiction to pass an order sealing the structures in question. It is further submitted that after sealing the structures, the Tehsildar, by a notice dated November 20, 2023, initiated a proceeding under Regulation 202 of the Andaman and Nicobar Islands Land Revenue and Land Reforms Regulation, 1966.

Ms. Babita Das, learned advocate appearing for the Administration, on the other hand, places reliance upon the report filed by the area Patwari, appearing at page 15 of the affidavit-in-opposition. Ms. Das submits that the petitioner has already sold the entire plot of land owned by him to different purchasers and that, as of date, the Record of Rights in respect of the said land stands in favour of as many as 59 persons.

According to her, the structures in question have been raised on land belonging to the Administration, and therefore,

the Tehsildar rightly passed the order sealing the said structures.

The Record of Holding Register annexed to the affidavit-in-opposition filed by the Administration indicates that 59 persons have been recorded in respect of Survey No. 75. However, it appears from the said register that these 59 persons collectively own only slightly more than 1.4360 hectares out of the total 2.00 hectares.

The judgment relied upon by the petitioner makes it abundantly clear that the Tehsildar is not statutorily empowered to pass an order sealing constructions. Such an exercise of power is de hors the statute namely, Andaman and Nicobar Islands Land Revenue and Land Reforms Regulation, 1966,

I am also of the view that the Tehsildar, before initiating a proceeding under Regulation 202 of the Andaman and Nicobar Islands Land Revenue and Land Reforms Regulation, 1966, could not have passed the impugned order sealing the structures in question. There should have been a prior adjudication as to whether the structures were raised on government land.

Before the conclusion of the proceeding under Regulation 202, the Tehsildar could not have come to a finding that the petitioner had undertaken construction on government land.

In view of the above, the impugned order dated November 8, 2023, passed by the Tehsildar, Ferrargunj, is set aside.

It is, however, made clear that this Court has not gone into the merits of the submissions made by the respective parties.

The Tehsildar shall dispose of the proceeding initiated under Regulation 202 of the Andaman and Nicobar Islands Land Revenue and Land Reforms Regulation, 1966, strictly in accordance with law and without being influenced by any observation made in this order.

Accordingly, **WPA/546/2024** is disposed of.

(**Kausik Chanda, J.**)