

BEFORE
TRIPURA HUMAN RIGHTS COMMISSION
KUNJABAN, AGARTALA

Complaint No. 07 of 2024

Complainant: Sri Uttam Kumar Saha
of Santipara, Agartala, West Tripura .

FINAL ORDER DATED 08.04.2024.

The present case has been instituted on receipt of a complaint filed by Uttam Kumar Saha resident of Santipara, near Vivekananda Market, Agartala, West Tripura. The facts of the complaint is that the petitioner is the permanent resident of Santipara on the eastern side of under construction TUDA Apartments where he has been living with his wife and one young son namely: Chandra Shekhar Saha. His son is a disabled to the extent of 90% Permanent Non-Progressive Disability. There is a narrow pathway on the eastern side of the under construction TUDA Apartment which connects his house with the main road i.e. Central road, Agartala. The petitioner has been residing with his family for last 35 years and he used the narrow pathway to provide medical aid to his disabled son for last 35 years. The TUDA construction now blocked the narrow pathway by posting a blockade in front of the gate of the narrow path way and thereby the petitioner is unable to use the narrow pathway and is unable to take his disabled son to hospital.

The petitioner has prayed for interference of the Human Rights Commission for violation of his fundamental rights as enshrined in the constitution.

2. Considering the facts as stated in the complaint, the Commission has thought it appropriate to examine the complainant and accordingly he was summoned to office of the Commission and his statement was

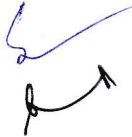
recorded on oath. The recorded statement of the complainant is as follows:

“ My house is located adjacent to the TUDA apartment in the eastern side. Before construction of the TUDA apartment, the entire area/land was vacant and along with neighbours we used that vacant area/land to go the main road connecting to the Central road.

During the construction of TUDA apartment in the vacant land, they have blocked my gate by posting a pillar with the intention that they will completely block my gate by constructing a wall. The path from my house to the main road is being used by me through the vacant area/land, where the TUDA apartment is being constructed. Besides me, other neighbours also used to go to the main road through that vacant area/land. Before construction of the TUDA apartment, I used to use this vacant area/land. There is another road from my house for ingress and egress having a width of 8 ft. My son is aged about 36 years, who is a physically handicapped with multiple disabilities. The category of his disability is 90%. He is completely blind by birth and cannot speak and walk. My wife has to feed him every time. We used that vacant area/land for taking my son to the hospital, but due to the present blockage by the TUDA apartment I am unable to give treatment to my son. I pray before the Commission for interference so that I can use the vacant land to go from my house to the main road.

Today, I am submitting a photo copy of the petition addressed to the Commissioner, TUDA, Agartala and Municipality for taking necessary action against blockage done by the TUDA apartment.”

3. The Commission there after issued a notice to the authority of the TUDA Apartment to submit their written response and accordingly written response was submitted. It is stated by the TUDA Authority

A handwritten signature in blue ink, followed by a black arrow pointing to the right.

that the land was allotted to them by the Government of Tripura for construction of apartment and during the process of construction they made GI Sheet boundary fencing around the TUDA Apartment for the safety purpose. The construction needs heavy machinery works and to protect the neighbours from any kind of unseen fatal incident and so TUDA encircled its own land. There was no existence of any pathway from the house of the petitioner to the main road. On the other hand the petitioner has his main road in the eastern side of his house up to Santipara road with width of 2.70 m. which is well connected with Santipara road. The petitioner is demanding additional path in the rear side of his house through the TUDA land which cannot be allowed for which they have encircled their own land.

4. It is admitted fact that the petitioner has his main gate in the eastern side of his house connecting his house with the Santipara main road by well-connected road having 2.70 m. and the narrow path which the petitioner demanding is an additional path through the TUDA land.

5. Since the land was given by Government of Tripura to the TUDA for construction of apartment, naturally they will encircle the entire land by boundary either by GI Sheet or by any other way. The TUDA Authority has come into picture after getting the land from the Government before 2/3 years and prior to that they had no knowledge about the existence of any narrow pathway. So opinion of the TUDA that there was no existence of any pathway over the TUDA land connecting the house of the petitioner with main road has no substance.

6. The claim of the petitioner is in the nature of easementary right which is in the character of civil dispute and that cannot be decided by this Commission for lack of jurisdiction.

7. Considering the above aspects the present enquiry is closed as it is beyond the jurisdiction. The petitioner, if so advised, may approach the appropriate legal forum seeking proper relief.

8. In the result the inquiry is closed. Copy of the order may be sent to the complainant.

S.C. Saha
8/14/24

(S.C.SAHA)
MEMBER

S.C. Das
8/14/24

(JUSTICE S.C. DAS)
CHAIRPERSON

B.K. Ray
8/14/24

(B.K.RAY)
MEMBER