

To

The Honourable Chief Justice and His Companion,
Supreme Court of India, New Delhi -110001.

Sub: A prayer under public interest litigation for
protecting a heritage area of indigenous people of
Jalpaiguri District within West Bengal.

Honourable Lordship,

With due honour, I beg to submit that I am a man of schedule caste community and my mother is a lady of lepcha community and both the communities are recognised in West Bengal. I myself along with others members of public used to enjoy the heritage area of Jalpaiguri Rajbari on different occasions round the year. The area is declared as heritage by the West Bengal Heritage Commission in the year 2007. But a series of illegalities are going on to destroy the area by using all ill means to deprive the public in general including myself.

But I have no ability to move before your lordship from such a remote place or before any forum of law due to my old age and financial disability. I have furnished all the details in respect of myself and also the violation of law in my enclosed original petitions before your lordship along with available relevant documents for your honours' kind perusal and necessary directions.

In these circumstances, I hope and pray to you that your lordship would be pleased to accept my application and allow my prayers under public interest litigation free of cost and for that I shall remain ever grateful to you.

Enclosed:

Writ Petition containing 14 pages.

Yours faithfully.

Gouri Shankar Deb Raikat.
(Gouri Shankar Deb Raikat)

BEFORE THE HONOURABLE CHIEF JUSTICE AND HIS COMPANION,
SUPREME COURT OF INDIA, NEW DELHI.
(PUBLIC INTEREST JURISDICTION)

W.P. No. 2013.

Gouri Shankar Deb Raikat

.... the petitioner.

VERSUS

State of West Bengal and others.

..... Respondents.

Sub : An application under public interest litigation for Preservation, protection and development of Jalpaiguri Rajbari heritage area in compatibility with the culture and history as declared by the West Bengal Heritage Commission and set aside the illegal divesting of heritage area in terms of West Bengal Estate Acquisition Act, 1953 read with West Bengal Land and Land Reforms Act, 1955 and further direct the local authorities to start appropriate proceeding against the wrongdoers and direct the authorities to recovery of heritage area after demolishing the unauthorised constructions as illegally approved by the Jalpaiguri Municipality and Siliguri Jalpaiguri Development authority in terms of West Bengal Heritage Commission Act, 2001 read with West Bengal Town and Country (planning and Development) Act 1979.

Gouri Shankar Deb Raikat

Sri Gouri Shankar Deb Raikat son of
late Raja Prasanna Deb Raikat C/O
Mr. Kumar Chhetri, resident of
Durgagari, New Darjeeling More,
Ward No. 45, Siliguri Municipal
Corporation, P.O. + P.S.
Pradhannagar, Dist. Darjeeling, North
Bengal, Pin – 734101.

....the petitioner.

BEFORE THE HONOURABLE CHIEF JUSTICE AND HIS COMPANION,
SUPREME COURT OF INDIA, NEW DELHI.
(PUBLIC INTEREST JURISDICTION)

W.P. No. 2013.

In the matter of an application under
Article 32/226 of Constitution of India for
public interest.

AND

In the matter of a writ of or order or
orders and / or direction in the nature of
writ of mandamus and /or certiorari and /or
any other appropriate writ or writs.

Gouri Shankar Deb Raikat

.... the petitioner.

VERSUS

State of West Bengal and others.

..... Respondents.

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Gouri Shankar Deb Raikat.
Signature of the applicant.

BEFORE THE HONOURABLE CHIEF JUSTICE AND HIS COMPANION,
SUPREME COURT OF INDIA, NEW DELHI.
(PUBLIC INTEREST JURISDICTION)

W.P. No. 2013.

Gouri Shankar Deb Raikat

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State of West Bengal and others.

..... Respondents.

Brief facts chronologically.

- 1) Baiunthpur Raj Estate is an impartible property and the last Raja Prasanna Dev Raikat died on 06.12.1946 living sons and daughters and thousands of acres of land at Calcutta, at Darjeeling and at Jalpaiguri with three homestead area.
- 2) The Raj-Estate has been occupied by Rani Asrumati Debi in the year 1953 and after her death; the property is occupied by Pratibha Bose excluding the other sons and daughters of the deceased Raja Prasanna Deb Raikat.
- 3) In the year 1953, The West Bengal Estate Acquisition Act came into force and thousands of acres of lands vest in favour of the State of West Bengal and compensation for that paid by the government.
- 4) Afterward it reveals that hundreds of acres of land are held by the alleged raiyat excluding other sons and daughters of the deceased Raja. Several returns were false submitted excluding hats, markets, homesteads and other lands under West Bengal Land and Reforms Act, 1955.
- 5) Several proceedings for vesting were started since 1974 and onwards and on technical grounds, the proceedings were quashed by the upper forum on the basis of returns submitted by the alleged Raiyat time to time.
- 6) On the basis of order dated 20.09.2000 in 550/2000, the B.L.& L.R.O.(S) started a fresh proceeding being no. 01/2001 under section 14T(3A) for fresh assessment of land of the Raiyat and on 12.09.2001, divested the plot no. 810 and 851 measuring an area 1.49 and 3.98 acres respectively without taking into consideration of other lands held by the alleged Raiyat.

Gouri Shankar Deb Raikat

Chansi Shankar Deb Roy

B

- 7) In the year 2005, the alleged Raiyat sold considerable lands in plot no. 851 which is a fair ground cum play ground near the heritage area.
- 8) On such incident, the people of the locality, one organisation naming as Jalpaiguri Itihas -O- Oitihya Mancha, the local MLA and other moved to pillar to post for preservation of the ground and others since 2005 and for inquiry as to divesting proceeding.
- 9) On 06.10.2005, the Principal Secretary has issued an oral order to the DL&LRO, Jalpaiguri directing not to make and construction near the heritage gate of plot no. 851 and also directed an inquiry to this effect but in vain.
10. In the year 2007, the West Bengal Heritage Commission has declared the Rajbari Compound as heritage area by their notification dated 28.05.2007.
11. In the year 2009, the petitioner along with 38 signatories of Raj-family prayed for preservation and protection of Rajbari Compound before the Divisional Commissioner.
12. On 20.01.2009 the Divisional Commissioner, Jalpaiguri has issued a letter addressed to the DL&LRO, Jalpaiguri for inquiry and necessary action but with no result.
13. On 26.04.2010 the BL&LRO(S) has informed in reply to RTI applications that all the lands of the Raiyat was not include in the fresh 14T(3A) of WBLR Act, 1955 for lack of information.
14. On 14.09.12, the BL&LRO(S) informed that plot no. 851 is vest with the government.
15. Since the end of 2007 has covered the plot no. 851 by a series of unauthorised constructions and after giving information to the authorities are reluctant to take appropriate steps.

BEFORE THE HONOURABLE CHIEF JUSTICE AND HIS COMPANION,
SUPREME COURT OF INDIA, NEW DELHI.
(PUBLIC INTEREST JURISDICTION)

C

Gouri Shankar Deb Raikat

W.P. No. 2013.

In the matter of an application under Article 32/226 of Constitution of India for public interest for protection of heritage property.

AND

In the matter of a writ of or order or orders and / or direction in the nature of writ of mandamus and /or certiorari and /or any other appropriate writ or writs.

Gouri Shankar Deb Raikat

.... the petitioner.

VERSUS

State of West Bengal and others.

..... Respondents.

Point of law

- i) Whether an occupier/ claimed Raiyat can change the nature and character of heritage area without proper permission from the W.B. Heritage Commission?
- ii) Whether the Municipal Authority can pass plans for changing the nature and character heritage area without the permission of the heritage Authority. ?

- iii) Whether the BL&LRO(S) can pass an order of divesting any vested plot with the Government without taking accounts of all the lands held by the alleged Raiyat ?
- iv) Whether the Land Reforms authority is bound to take into consideration all the landed properties held in the same state in fresh proceeding under 14T (3A) of WBLR ACT, 1955.
- v) Whether the land reforms authority can start separate proceeding under section 14M of WBLR Act for separate Mouzas or Block or District of the same state?
- vi) Whether the lands held under Calcutta Municipal Corporation and the land held under other Districts of State by the same Raiyat ought to be included in the vesting proceeding or not.
- vii) Whether the notification of West Bengal Heritage Commission as to "Jalpaiguri Rajbati" meant for only palace building or meant for all the water bodies, structures, temples, fairgrounds and precincts?
- viii) Whether the Jalpaiguri Municipality and Siliguri Development Authority is bound to protect and notify the area as per Municipal Laws?
- ix) Whether the land reforms authority can record entire land of deceased Raiyat in one daughter's name before coming into operation Hindu Succession 1956 excluding the other sons and daughters and eldest male members of the family violating the five century old customs before 1956?

BEFORE THE HONOURABLE CHIEF JUSTICE AND HIS COMPANION,
SUPREME COURT OF INDIA, NEW DELHI.
(PUBLIC INTEREST JURISDICTION)

Gouri Shankar Deb Raikat

W.P. No. 2013.

In the matter of an application under Article 32/226 of Constitution of India for public interest.

AND

In the matter of a writ of or order or orders and / or direction in the nature of writ of mandamus and /or certiorari and /or any other appropriate writ or writs.

AND

In the matter of section 11 and 27 of West Bengal Heritage Act, 2005 read with 31(4) of West Bengal Town and Country (Planning and Development Act, 1979.

AND

In the matter of section 6(c) and 6(d) of West Bengal Estate Acquisition Act, 1953 read with the sections 14M, 14Q and 14U of West Bengal Land Reforms Act, 1955.

AND

In the matter of 4(C) of WBLR Act, 1955 read with 16 of West Bengal Heritage Commission Act, 2001.

AND

In the matter of Sri Gouri Shankar Deb Raikat son of late Raja Prasanna Deb Raikat C/O Mr. Kumar Chhetri, resident of Durgagari, New Darjeeling More, Ward No. 45, Siliguri Municipal Corporation, P.O. + P.S. Pradhannagar, Dist. Darjeeling, North Bengal, Pin - 734101

.... the petitioner.

Gour. Chandra Deb Raut

VS.

- i) The State of West Bengal represented by the Secretary, Government of West Bengal, Writers' Buildings, Kolkata – 700001.
- ii) The Chairman, West Bengal Heritage Commission, 1, Satyendra Nath Roy Road, Behala, Kolkata – 700034.
- iii) The Principal Secretary, Land and Land Reforms Department, Government of West Bengal, Writers' Buildings, Kolkata – 700001.
- iv) The Divisional Commissioner, Jalpaiguri Division, P.O. + Dist. Jalpaiguri, West Bengal, Pin- 735101.
- v) The District Magistrate, Jalpaiguri, P.O. + Dist. Jalpaiguri, West Bengal, Pin – 735101.
- vi) The District Land and Reforms Officer, Jalpaiguri, P.O. + Dist. – Jalpaiguri, West Bengal, Pin -735101.
- vii) The Block Land and Land Reforms Officer (Sadar), Jalpaiguri, Rajbaripara, P.O. + Dist. Jalpaiguri, West Bengal, Pin – 735101.

Gouri Shankar Deb Barik

- viii) The Chairman, Jalpaiguri Municipality, P.O. + Dist. Jalpaiguri, West Bengal, Pin – 735101.
- ix) The Chairman, Siliguri Jalpaiguri Development Authority, P.O. + P.S. - Pradhannagar, Siliguri, Dist. Darjeeling, West Bengal, Pin – 734101.

.... the Respondents.

To

The Honourable Chief Justice and His Companion,
Supreme Court of India, New Delhi -110001.

Subject : A prayer under public interest litigation with to regard to protection of heritage area Jalpaiguri Rajbari vide notification no. 39/N1/WBHC/2007/2008 dated 28.05.2007 and for a direction to the Government of West Bengal, especially, The Chairman, Siliguri Jalpaiguri Development Authority, Siliguri, The Chairman, Jalpaiguri Municipality, Jalpaiguri and the District Magistrate, Jalpaiguri and the concerned block authorities to implement the West Bengal Heritage Act 2005, West Bengal Land Reforms Act, 1955, West Bengal Estate Acquisition Act, 1953, and West Bengal Municipal Act,1993 in relation to the landed properties and other buildings, heritage structures and water bodies and temples lying therein and also for direction to recover the vested government landed properties of Rajbari compound including the fair ground and surroundings thereto.

Gour. Shankar Deb Raikat-

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Honourable Lordship,

I, Sri Gouri Shankar Deb Raikat son of late Raja Prasanna Deb Raikat C/O Mr. Kumar Chhetri, resident of Durgagari, New Darjeeling More, Ward No. 45, Siliguri Municipal Corporation, P.O. + P.S. Pradhannagar, Dist. Darjeeling, North Bengal, Pin - 734101, beg to draw that I am one of the son of Raja Prasanna Deb Raikat and now being a penniless person living in a rented house in the above noted address. I, being a citizen of India and being a member of Baikunthapur Raj-family, beg to draw your kind attention and immediate intervention for protecting the heritage, culture and archaeological inscriptions, statues, temples, fairgrounds of Rajbari as follows:

- i) That the petitioner's father the Raja of Baikunthpur Raj Estate and also was an elected member of Constituent Assembly for interim government of independent India till his death and also a minister for Forest and Excise department in Bengal Government. Your honours' petitioner is the son of a schedule tribe lepcha mother begotten from schedule caste Koch father as recognised in the State of West Bengal.
- ii) The petitioner himself is an old pensioner having a small income with several ailments and he is now living in rented house at Siliguri as noted above after being evicted by way of acquisition from the parental house having 22.45 acres of land at Batasia, Darjeeling. It is well known to the hooligans, their associates and corrupt officials that your petitioner and other members of this Raj family have no financial ability and stability to fight against the powerful illegal occupiers and their rowdy associates for protecting the Rajbari present compound and its' surrounding fair ground, temples, cultural meeting grounds, archaeological inscriptions, and water bodies attached thereto.

Gouri Shankar

- iii) That Your petitioner, being a member of the Raj-family, declares that he would not claim anything in future from the declared heritage property as beneficiary to this compound either by way of compensation or otherwise, if the same is taken over by the government. Your petitioner like the public in general seeks to preserve and protect the heritage property in honour of his deceased history attached father. Further the petitioner begs to inform your honour that the present ill occupiers are always trying to destroy the same by any means violating all the laws of the land.

- iv) That the Jalpaiguri Rajbari Compound has been declared as heritage area by the West Bengal Heritage Commission vide their notification dated 28.05.2007 vide notification no. 39/N1/WBHC/2007/2008 marked as annexure A. The enclosed copy of notification marked as annexure -A would reveal the truth from the item no. (i). Although the area of Rajbari has not been specifically defined in the notification but the same would reveal from the enclosed the copy of R.S. Khatian no.16806 marked as annexure - B.

- v) That from the said Khatian it would also reveal the total vest and rayati areas of Rajbari compound. The vest plot numbers are 762, 762/1001, 763, 764, 764/1002, 765, 768, 792, 805, 807, 809, 810, 812, 813, 816, 820, 821, 822, 823, 824, 826, 827, 828, 829, 830, 831, 833, 834, 835, 836, 837, 841, 842, 847, 849, 850, 851, 853, 854, 855, 895, 896, 831, 888, 889, 893 894 and the raiyati plot numbers are 788, 844, 845, 846, 848. Out of raiyati plots plot no. 848 is recorded as the main pathway to Rajbari inner temples and buildings and plot no. 845 is recorded as the temple of Baikunthanath and Debi (Durga). But it is unfortunate that the temple of Baikunthanath and Debi (Durga) is destroyed by the present occupiers a few years back.

- vi) That the brief history of this estate is that Baikunthapur Raj Estate, Jalpaiguri is situated near the district headquarter of Jalpaiguri Division having thousands acres of land in Jalpaiguri, Darjeeling and Calcutta. This estate is situated in the chicken neck of Indian map on the north eastern part of the country and it connects the North Eastern Provinces with the

rest area of the country. This Raj estate was under the Cooch Behar Raj-estate as Chhatrdhari and the founder of this estate is Siswa Singha, the elder brother of Raja Biswa Singha who is son of the founder of modern Naba- Kamatapur and popularly known as Cooch Behar Kingdom.

- vii) That as a part of the Cooch Behar Kingdom, it had a glorious history of more than five hundred years and for their joint effort, the North Eastern part of India has been annexed with India and the good relation of with our neighbouring country, Nepal and Bhutan, is also product of the rulers of Cooch Behar kingdom. This estate had thousands of acres of land enriched with endemic flora, fauna, heritage and culture in ancient time. By the passes of time, Baikunthapur Raj Estate had lost everything due to hungry paws of cunning and devil grabbers and now only the Rajbari Compound and some temples, structures, water bodies, Rajbari Gate, Statues and buildings are the evidences of past days. These properties are in common use to everybody of the public and the members of Raj-family except residential building. Since then the public in general used to meet in this place round the year on different occasions, especially on Mechini Mela, Nabami Mela and Bishahari Mela. There are different fair grounds for conducting the fairs since time immemorial.
- viii) That in these fairs local holiday is /was observed in government offices and schools and collages of this district. In past days, the people from neighbouring foreign countries viz, Nepal, Bhutan and the East Pakistan but now for lack of maintenance, now only the rural of this district used to visit the fairs at least twice a year. These melas are known as Nabami Mela during Durga Puja which was the starter of Bhandani Melas of this district and other one is Bishahari Mela which is now known as Manasha Mela. In short, it can be said that the area is / was busy with different festivals, rites and fairs till date which is sign of communal harmony and national integrity.

- (ix) That the Balkunthapur Raj Estate is an impartible property and the only throne of the Raj could be inherited by the eldest son of the family and in absence of son of the deceased King, the eldest nearest blood male member of the family would inherit the throne as per five century old customs and other members of the family would be beneficiary of the property. This custom would also reveal from the registered will of Raja Jogendra Deb dated 28th Chaitra 1278 B.S. corresponding to 01.03.1883 A.D. and registered will of Raja Makaranda Deb dated 25th Magh 1259 B.S. The estate at present has a Rajbari having magnificent water bodies, temples, statues, big entry Gate commonly known as Rajbari gate, Mela (fair) grounds and other buildings and structures at the heart of the town Jalpaiguri for about 200 years or above. By its' service, the estate has acquired a good space in regional history and culture.
- x) That on early days of this century, the area of Rajbari was more or less 80 acres and now after acquisition by sports complex on the southern side, it stands more or less to an area of 50 acres. Out of which the major portion is vest land and only a few plots are rayati land. In that rayati plots there are construction of a Durga temple, Kali temple and newly constructed Bishahari temple, an old uncared building of Rajbari and a pond for using by the pilgrims those come to these temples. This would reveal from the annexure -B.
- xi) That there were several litigations of succession in past days after the death of my father Raja Prasanna Dev over throne in between the legal heirs of second wife, Rani Asrumati Debi, in her demise, Pratibha Bose versus Rupendra Deb Raital and others leaving the other original legal heirs. This honourable court has decided on 10.05.1963 wherein out of five Honourable Judge Justice S.K.Das and Justice A.K.Sarkar observes in Civil Appeal no. 539/1960 as follows:

"We, therefore, direct that the case be sent to the District Judge of Jalpaiguri to decide whether he would in the circumstances of this case call upon the appellant to furnish security and make an order accordingly. The cost in this matter in all the courts so far incurred and to be incurred before the District judge under this order will be costs in the suit."

This court further observed as follows:

"It enjoyed upon the court of justice not to interfere in such cases except when a regular complaint be preferred and then too they were to proceed according to general regulation till 1903. Thereafter the proceedings were governed by the Civil Procedure Code. This meant that a person who claimed to be so entitled, could take possession without permission, he could do so without violence and that his rival claimants, if any, had to move the courts by a regular complaint and that it was then that court of justice would consider the dispute between the person who had taken possession and the other claimants."

In majority view this court has been pleased to observe as follows:

"In this view of the matter, it is not necessary to decide the other contentions raised in this case. We, therefore, set aside the appeal, set aside the order of the court below and dismiss the application of the respondents presented to the District Court under s.IV of Regulation V of 1799. We order that the respondents will pay the costs of the appellant throughout."

It may be mentioned that the present petitioner and other sons and daughters of late Raja Prasannadeb Raikat and elder male members of the family were not party to those suits in lower court or before the higher court as we were minor and had no financial stability.

- xii) That since then the litigation is dropped in true sense in undecided condition by the parties therein, keeping us in dark. In utter violation of land laws, Pratibha Bose has been successful to convert and record the estate's landed property in her personal name in the year 1956 depriving other sons and daughters of deceased Raja. But the deceased Pratibha Bose was not the owner or successor of the estate. Pratibha Bose and after her demise, her sons, apprehending further litigation by the real owners begun to dispose of the properties situated outside the Rajbari compound one by one violating all the laws of land showing her as the only legal heir of the deceased Raja.
- xiii) That even if assuming her as sole ownership of the estate, it may be safely presumed from various records of the Land and Land Reforms department that she and her sons has already disposed of lands beyond the ceiling limits as prescribed by various land laws and gave false statement in required returns. A fresh divesting proceeding was started without taking all the lands of alleged and paid several lakhs of government fund at the initiative of high officials. On the selfsame land more or less three proceedings were started but in all proceedings all the landed properties were not shown by the alleged claimed raiyat.
- xiv) That it goes to show from the RTI letter item no. (d) of the letter of B.L. & L.R. being no. 268/ BLLRO(S)/SADAR/JAL dated 24.10.2-10 addressed to the DLLRO, Jalpaiguri that all the properties were not included in fresh L.R. vesting proceeding. The same is marked as annexure - C. The last claim of alleged raiyat was decided in the year 12.09.2001 in proceeding no. 01/2001 suppressing the total accounts of land held by them at Dhakuria, Calcutta, at Batasia, Dist- Darjeeling, at Siliguri, Dist -Darjeeling, at Rajganj, Dist - Jalpaiguri, at Maynaguri, Jalpaiguri and at Sadar Jalpaiguri, Dist- Jalpaiguri. Out of which considerable quantum of sold after 1969 to 1980 and considerable quantum of land were acquisitioned by the government by E.A. Act and L.A.&R.Act since 1953. The Xerox copy of RTI letter no. 105 /SDLLRO/DJ/09 dated 25.02.09 marked as annexure - D and the acquisition letter LA/X/HC/CR/2897(F)76 dated 06.02.1986 addressed by the ADM, Darjeeling, of Batasia parental Property enclosed herewith would reveal the truth. The same is marked as annexure - E.

In such a situation, the Jalpaiguri Municipality, Jalpaiguri Zilla Parishad, Fisheries department, Government of West Bengal, and Forest department, Government of West Bengal have tried to develop the Rajbari compound /area by making park and other projects by expensing several lakhs of government funds since 1995 and tried to take control thereof. But on all occasions, suppressing the real story and real accounts of all the land, Pratibha Bose since 1953 and after that her sons being the present illegal occupiers have been resisted the good attempts of the authorities in piece meal manner.

- xv) That the present occupiers have also been successful in obtaining illegally near about rupees one crore compensations of some lands from the government by giving false and fabricated accounts of land holdings and also by selling government land for lakhs rupees as their own by using some ill officers of the concerned departments. All these were matured due good ill influences of a top executive of West Bengal Government. In these regard, your petitioner has no document but on enquiry from the District magistrate's Office, Jalpaiguri would reveal the truth.
- xvi) That at present this Rajbari consists of more or less 50 acres of land having four water bodies (tanks) measuring more of less 41 acres, four temples and one magnificent principal gate which is popularly known as Rajbari-gate. All these structures and water bodies are on lands which are more or less vest with the State of West Bengal. Further this gate is constructed in the year 1911 /1912 and now this gate is being maintained by the Siliguri Jalpaiguri Development Authority in collaboration with the Jalpaiguri Municipality since 2008 and on wards. **This Gate is also the heritage symbol of this district.** In recent times, the gate is renovated by the Jalpaiguri Siliguri Development Authority by expensing a huge amount about rupees 25,00,000/- when the same was damaged by severe earthquake on 18.09.2011. Your petitioner encloses zerox copy of part C.S.

map marked as annexure – F and R.S. map marked as annexure – G published by the government of West Bengal for your kind perusal as evidences of some temple, structures, path ways and water bodies. Xerox copies of R.S. Khatian no. 16806 marked as annexure -B published in the year 1956.

- xvii) That the Jalpaiguri Municipality has a population of more or less three lakhs having no sufficient parks and gardens for its' citizens and for this reason the morning and evening walkers prefer this area for its' fresh air, beauty, spiritual value and eco friendly environment. By the side of Rajbari Compound, there are thickly populated areas and in dry season, the main water body is occasionally used by the Fire Brigade as water source for their urgent needs to extinguish fire. Further the municipality has no sufficient free space for holding any big fair amid of about three lakhs population. From all these point of view, the area demands preservation and protection.
- xviii) That in the year 2005 the occupiers illegally divested R.S. plot nos. 851 and 810 for an area measuring 3.98 and 1.48 acres adjacent to heritage structures in proceeding no. 01/2001 by B.L. & L.R. O, by order dated 12.09.2001 marked as annexure no. O and the order of WBLRTT dated 20.09.2000 marked as annexure N, without taking other lands of the alleged Raiyat and sold a considerable portion of vested government land in R.S. plot no. 851, preserved for fair and play ground (145 of West Bengal Land Reforms Act) for several lakhs of money to one nursing home and others with a view to close the fairs and cultural festivals on the century old fair grounds. It would reveal from the R.S. Khatian no. 16806 marked as annexure B. These grounds are/ were being used as mela ground and cultural meet ground by the public in general including us during the festival days. On such acute situation, the public in general marked as annexure R and S, social organisation viz, Jalpaiguri Itihas O Oitihya Raksa Mancha, Jalpaiguri marked as annexure nos. H, I and J and representation of local MLA marked as annexure K, have tried to protect the area from the hands of hooligans and looters and moved from pillar to post including all the concerned authorities for protecting the heritage sites, precincts and structures in the year 2005 and onwards. The letter of BL&LRO Sadar being no. 581/BL&LRO/JAL dated 14.09.12 marked

Gouri Shankar Deb Raik

as annexure L enclosed herewith would reveal the truth. Some copies of prayers by the public in general are also enclosed herewith for your kind perusal.

- xix) That the then Principal Secretary, Land and land Reforms Department, Government of West Bengal has issued an oral order vide memo no. 339/D/O/002/131 (Misc.)/ LMS-I/DLLRO/JAL/05 dated 06./10/2005 marked as annexure – M through the District Land and land Reforms Officer, Jalpaiguri, for not constructing any structure in land in question and also issued an order of inquiry on the subject. Your petitioner along with 38 other members of Raj-family moved before the Divisional Commissioner for protecting the heritage property on 13.01.2009 marked as annexure P and the Divisional commissioner did nothing save and except forwarding a letter to the DL&LRO, Jalpaiguri being no. 6/LMR dated 20.01.2009 marked annexure Q. But the forwarding copy is now in freezing condition at District administration's office as it may reveal a scam involving some top executive of the administration. All these documents are enclosed for your honours kind perusal.
- xx) But till this day no enquiry has taken place and on the other hand, the property is being transferred illegally one by one by the present illegal occupiers to close the fair grounds and cultural meet ground for ever. As a result, a series of illegal and unauthorised constructions are going on at the ill initiative of Jalpaiguri Municipality and Siliguri Jalpaiguri Development Authority and the right of public in general are being curtailed one by one. The Jalpaiguri Municipality is even reluctant to supply information of compensation paid to the occupiers in response to your petitioner's RTI prayer dated 09.09.2009.
- xxi) That within the range 50 metres of this Rajbari-gate, there is a Shibamandir inaugurated by Rani Amriteswari Debi wife of Raja Fanindra Deb in the year 1305 (B.S) corresponding to 1898 A.D. and a Manasha Mandir which was formerly used for worshipping diety of kali which was worshipped by history famous Bhabani Pathak at Shikarpur of Baikunthapur forest. On the

Genl. Chamber Deb Raj

western bank of Rajbari Baradighi both the temples were built in the year 1305 B.S. or before (1898 A.D. or before). Rajbaridighi is a magnificent water body having more or less 25 acres of land. This water body is being utilised by the pilgrims to the temples of Rajbari, the hindi belt people for their holy Chhat Puja, the Rajsthani people for last rites, the swimmers for their swimming in separate ghats for male and female and local persons for their marriage related different rites and customs and also for Mechini Mela. The photocopy of foundation script of Shiva mandir marked as annexure - P and a copy of C.S. map prepared in the year 1906-07 marked as annexure - F are enclosed herewith for showing the existence of century old structures, temples, buildings and water bodies for your Honours' kind perusal.

- xxii) That the remote area Raj-family members use this ground as camps during raj-family festivals and also for the fairs during the period of Durgapuja and Bishhari Puja. Inside water body is used by the pilgrims to temple of Baikunthanath, Kali and Bishahari and also for immersion of mud idols of Debi(Durga), Bishahari etc. during festival seasons.
- xxiii) That considering all these importance, the West Bengal Heritage Commission has declared as heritage building and precinct vide their notification no. 39/N1/WBHC/2007-08 dated 28.05.2007 marked as annexure A as the centre of heritage, culture, environment, archaeological remains and history. This property is valuable one and only the remaining vest lands of the compound shall not be less Rs. 50 crores. The notification copy containing is enclosed with this application for your honours' kind perusal.

Your petitioner, being a citizen of this land, begs to prefer this petition in the interest of public in general before your honour for immediate intervention to the effect that:

- A) Direct the State of West Bengal and Heritage Commission to protect, preserve and renovate this heritage property in compatibility with the sites and structures after taking advice from the persons involved in this process since 2005.

Gourishankar Deb Barik

- B) Direct the local authorities to take appropriate legal steps against the wrong doers in this heritage property and restore the fair grounds and cultural meeting grounds after demolishing the unauthorised constructions therein as on 2005.

- C) Direct the West Bengal Heritage Commission to demarcate the area of existing Rajbari compound and enlist the properties/ structures/idols/buildings and precincts and inform the public in general as simple notification of only " Jalpaiguri Rajbati " as raised the confusion among the public in general.

- D) Direct the State of West Bengal to implement the laws through the Chairman, West Bengal Heritage Commission, the District Land and Land Reforms Officer, Jalpaiguri, the Chairman, Siliguri Jalpaiguri Development Authority, Siliguri and the Chairman, Jalpaiguri Municipality, their subordinate bodies.

- E) Direct the State of West Bengal to implement the WBLR Act after taking all the landed properties in account proceeding 14T(3A) of WBLR Act, 1955 and set aside the order dated 12.09.2001 in proceeding no. 01/2001 and also to implement the laws of the land and of heritage at an early date.

- F) Direct the State of West Bengal to start proceeding for return of compensation paid to the present occupiers, if paid illegally and unauthorised manner for properties in excess to ceiling limit.

- G) Direct any relief / reliefs to which your petitioner and the public in general is legally entitled.

BEFORE THE HONOURABLE CHIEF JUSTICE AND HIS COMPANION,
SUPREME COURT OF INDIA, NEW DELHI.
(PUBLIC INTEREST JURISDICTION)

W.P. No. 2013.

Gouri Shankar Deb Raikat

..... the petitioner.

VERSUS

State of West Bengal and others.

..... Respondents.

List of documents enclosed:

- A) Copy of notification no. 39/N-1/WBHC/2007-2008 dated 28.05.2007 showing the item no. 1, issued by the West Bengal Heritage Commission.
- B) Xerox copy of Khatian no. 16806 dated 22.03.04 showing the vest plots and raiyati plots including plot no. 851.
- C) Xerox copy of 268 /BLLRO(S)/SADAR/JAL dated 26.04.2010 issued by the BL&LRO(S) showing item no. (d) that all the lands were not included due lack of information
- D) Xerox copy of 105/SDLRO/DJ/09 dated 25.02.09 showing the 22.45 acres acquisitioned by the government of West Bengal for T.B. Hospital, Jore – Banglow and all these lands were used as homestead.
- E) Xerox Copy of letter no. LA/X/HC/CR/2897(P) dated 06.02.1986 showing the acquisition of homestead land Batasia, Darjeeling for payment.
- F) Copy of part C.S. map prepared in the year 1906-07 showing temples, water bodies and other structures.
- G) Copy of R.S. Map prepared in the year 1954-1957 in part showing the temples, structures water bodies, paths and others.
- H) Representation by the Jalpaiguri Itihas –O- Oitihya Mancha, addressed to the District Authorities dated 17.11.05.

Gouri Shankar Deb Raikat 15.

Case: Shambhu Deb Routal.

16.

- I) Representation by the Jalpaiguri Itihas –O- Oitihya Mancha, addressed to the Assistant Engineer, Siliguri Jalpaiguri Development Authority dated 25.07.06.
- J) Representation by the Jalpaiguri Itihas- O- Oitihya Mancha, addressed The MIC, Land and Land Reforms Department, Government of West Bengal dated 10.04.06.
- K) Representation by the Member of Legislative Assembly (Jalpaiguri Constituency), Government of West Bengal, addressed to the Principal Secretary, Land and Land Reforms Department dated 29.09.05 with some information.
- L) Xerox copy of RTI letter no.581/BLLRO(S)/JAL dated 14.09.12 issued by the BL&LRO(S), Jalpaiguri showing the fair ground being plot no. 851 as vest land.
- M) Copy of oral order by the Principal Secretary through the ADM, Jalpaiguri being no.339/C/C/002/131(Misc.)/LMS-I/DLLRO/Jal/05 dated 06.10.2005 **directing construction in south West corner of R.S. plot no. 851.**
- N) Copy of order dated 20.09.2000 passed by the WBLRTT, Calcutta with a **liberty to initiate fresh proceeding under 14T (3A) of WBLR Act, 1955.**
- O) Copy of order of B.L. & L.R.O.(S) Jalpaiguri in 01/2001 dated 12.09.2001 without taking accounts of all the lands held by the alleged Raiyat.

- P) Xerox copy of representation of 38 signatories before the Divisional Commissioner, Jalpaiguri Division, at Jalpaiguri dated 13.01.09. Copy of letter no. 99E/D/001/001/31/LMS-II/DL&LRO/Jal/05-06 dated 20.07.06 issued by the DLLRO, Jalpaiguri showing the land is retained under 14T(3A) of WBLR Act, 1955.
- Q) Copy of letter being no. 6/LMR/ dated 20.01.2009 issued by the Divisional addressed to the DL&LRO, Jalpaiguri.
- R) Representation by the public in general dated 27.09.05 addressed to The District Magistrate, Jalpaiguri.
- S) Representation by the public in general addressed to the Chairman, Jalpaiguri Municipality dated 24.09.05.
- T) Photocopy of foundation script of Lord Shiba Temple by Rani Amriteswari in the year 1898 on the west bank of Rajbaridighi.
- U) Xerox copies of returns for about 1900 Acres submitted in Rajganj Block for two tea Gardens of Jalpaiguri District dard 26.12.89 and on 01.08.69 these lands were held by alleged Raiyat wherein the returns were submitted excluding hats (weekly markets), temples, and other lands even of Jalpaiguri.
- V) Xerox copy of scheduled caste certificate(V-1), Voter identity Card (V-2) and Ex-serviceman card (V-3) issued by the respective authorities.