

IN THE HIGH COURT AT CALCUTTA

CONSTITUTIONAL WRIT JURISDICTION

[CIRCUIT BENCH AT PORT BLAIR]

PRESENT: HON'BLE JUSTICE APURBA SINHA RAY

WPA/365/2025

*Andaman Plantations and Development Corporation
Private Limited and Another*

... Petitioners

Versus

The Hon'ble Lieutenant Governor and others

... Respondent

For the petitioners : Mr. Aniruddha Chatterjee, Sr. Adv.
(through virtul mode)
Mr. Asif Hussain
Ms. Jyoti Singh
Mr. Ajay Majhi

For the State : Mr. Sumit Kumar Karmakar

Heard on : 29.01.2026

Judgment on : 05.02.2026

APURBA SINHA RAY, J.

1. By filing this writ petition the petitioners have challenged the order dated 15.01.2025 passed by the Assistant Commissioner, Relief and Disaster Management, South Andaman District whereby the petitioner's prayer for compensation as per Tsunami Relief Package and the Central Government's Policy dated 31st July, 2012 was turned down.

2. According to Mr. Chatterjee, learned Senior Counsel, the impugned order dated 15.01.2025 as stated above is not

sustainable in law since the grounds on which the said order is based upon have already been decided up to the Hon'ble Apex Court, but unfortunately the concerned Assistant Commissioner, Relief and Disaster Management, South Andaman District did not consider the same and pass the said order in gross violation of law. In this regard Mr. Chatterjee, assisted by Mr. Asif Hussain, has drawn the attention of this Court to several orders passed by Hon'ble Court on several occasions.

3. For the purpose of understanding the background of this writ petition, the order dated September 01, 2025 passed by this Court is quoted herein below:-

"The petitioner has preferred the present writ petition being aggrieved by the Order dated 15.01.2025 passed by the Assistant Commissioner, Relief and Disaster Management, South Andaman District, whereby the petitioners claim for compensation for the losses suffered due to natural calamity, namely the 2004 Tsunami, was rejected.

The matter has a chequered history. The petitioner held lease hold rights over several plots of land situated at North Bay, Bambooflat, Mithakhari, Minnie Bay villages in South Andaman District. The lease was valid till 31.12.2014. The petitioner applied for an extension, which has not been granted, consequently petitioner filed a Civil Suit for declaration being Title Suit No. 169 of 2014 which is pending for adjudication before the Civil Judge (Senior Division), Port Blair.

It is a claim of the petitioner that he was carrying out farming activities over the said lands and provided employment to more than 500 workers. On 26.12.2004, due to the catastrophic Tsunami, the petitioners' land measuring 54.85 Hectares suffered extensive damage. On 14.01.2005 the petitioner submitted three applications claiming damages to the tune of Rs. 11 Crores in respect of the losses suffered during Tsunami. The Andaman Administration initially granted an ex-gratia payment of Rs. 7,67,900/- to the Petitioner, however, it was later withdrawn.

Aggrieved thereby the petitioner filed WP No. 1304 of 2010. Vide order dated 13.07.2012, this Court allowed the said writ petition and directed the Administration to assess and compensate the petitioner's losses in accordance with law. The Administration

preferred an appeal before the Division Bench in FMA 0005 of 2013 which was dismissed vide order dated 04.03.2013, affirming the finding of the learned Single Judge.

Despite such affirmations, the respondent administration failed to comply with the directions, compelling the petitioners to file W.P. No. 328 of 2015, W.P. No. 252 of 2015 and W.P. No.399 of 2016. By a common order dated 09.06.2017, the learned Single Judge directed the Administration to reassess the damages and decide petitioner's application for compensation in accordance with law. Although, a hearing was granted to the petitioner on 07.03.2018, no final order was issued.

Consequently, the petitioner preferred Writ Petition No. 189 of 2022, which was disposed of by a Coordinate Bench of this Court vide order dated 28.03.2024, directing the Administration to reassess and compensate the petitioner as per the policy dated 30.07.2012. Both the parties preferred cross-appeals being MAT No. 24/2024 and MAT No. 31/2024 before the Hon'ble Division Bench. By judgment dated 08.11.2024, the Division Bench allowed the appeal filed by the Administration and dismissed that of the petitioner.

The petitioner then approached the Hon'ble Supreme Court by filing SLP No. 5519 of 2024, challenging the said order. In the meantime, the Assistant Commissioner, Relief and Disaster Management, South Andaman District, afforded a hearing to the petitioner on 23.12.2024, pursuant to which the petitioner submitted a written representations on 23.12.2024 and 27.12.2024. By the impugned order dated 15.01.2025, the Assistant Commissioner rejected the petitioner's claim for compensation.

The petitioner approached the Hon'ble Supreme Court challenging the said order, but vide order dated 27.01.2025, the Hon'ble Supreme Court directed the petitioner to approach this Court and seek adjudication on the legality of the impugned order dated 15.01.2025 on its own merits. In view of the said developments, the petitioner has preferred the present writ petition.

Learned Counsel for the respondent/administration seeks and is granted four weeks time to file his affidavit-in-opposition. Reply to the same, if any, within two weeks thereafter.

List this matter after eight weeks before the next available Circuit Bench."

4. In the backdrop of the same, Mr. Sumit Kumar Karmakar, learned counsel appearing for the Administration has submitted that the petitioners are not the owners of the land nor they are recorded tenants. The petitioner No.1 is a company and it was not a recorded tenant. Furthermore, it was a grantee whose grant expired in the year 2014 and further the said Company filed a Civil Suit before the learned Civil Judge (Senior Division),

Port Blair for extension of period of grant and the same is still pending. Therefore, the petitioner company is not entitled to any compensation.

5. Mr. Karmakar, learned advocate has further submitted that although the Hon'ble High Court was pleased to direct the Administration to reassess the compensation, but after carrying out the proposed assessment it was found that the petitioners are not entitled to any compensation. Mr. Karmakar has hastened to add that there was no direction upon the Administration to pay the compensation as sought for. As the petitioner No.1 was merely a grantee and whose grant expired long ago, it is not entitled to any compensation as prayed for.

6. I have already discussed the chronology of events. It is needless to mention that order dated 15.01.2025 has been passed by the Assistant Commissioner, Relief and Disaster Management on the basis of a direction passed in MAT/24/2024 along with MAT/31/2014 on 08.11.2024 by the Hon'ble Division Bench and subsequently by order dated 27.01.2025 the Hon'ble Supreme Court directed the writ petitioner to approach this Court for adjudication on the point of legality of the impugned order dated 15.01.2025 on its own merits.

7. If we peruse the order dated 15.01.2025 as stated above we shall find that the Assistant Commissioner has mentioned that as the period of grant has expired and further as the relevant guidelines issued by the Government of India, Ministry of Home Affairs, National Disaster Management Division vide letter No. 32-1/2005-NDM.I dated 24.02.2005 and read with A&N Administration's order No. 631 dated 09.02.2005 and subsequent order No. 773 dated 01.03.2005 specified the eligibility for small and marginal farmers as recipients of such compensation, the petitioner No.1 being a body corporate under the company law does not come under the purview of the relevant scheme. It is also stated in the said order that the amount of Rs. 7.679 lakhs had inadvertently been sanctioned in favour of the petitioner No.1 but the same was not deposited on the basis of the order passed by the Hon'ble High Court in the matter of FMA 005 of 2013 in WPA No. 1304 of 2010. The said order dated 15/01/2025 also discloses that the prayer for payment of additional compensation of 11,09,20,614/- with interest which was made on the basis of internal assessment of the petitioner company is not according to the norms and therefore it was not acceptable. The concluding portion of the said order dated 15.01.2025 is quoted herein below:-

***"Now therefore,** after the careful circumspection of the case I am of the considered opinion that in the light of judgment delivered by the*

Hon'ble Supreme Court of India it is ostensibly clear that the grantee cannot stay in possession for more than 60 years. Strictly speaking the grant of land in favour of the Andaman Plantation and Development Corporation Private Limited is not for endless duration as the grantee after the expiry of grant period is only an encroacher, thus not entitled for any claim or compensation. On bare perusal of the guidelines as issued by the Government of India, Ministry of Home Affairs, National Disaster Management Division and subsequent order of the Administration, it is clearly mentioned that the ex-gratia relief in the agricultural sector is only admissible for eligible small and marginal farmers. The Andaman Plantation and Development Corporation Private limited is a body incorporated under the company law, with an area 421.9964 hectares under its occupation and does not come under the purview of the above scheme. On the basis of aforesaid exordial enunciation, it is ostensibly clear that the Andaman Plantation and Development Corporation Private Limited is not eligible for any compensation, therefore the representation dated 07th March, 2018 is thus not maintainable and hereby rejected;"

8. After going through the entire material on record I find that the issue that the petitioner company's activities are farming has been dealt with by the Hon'ble Coordinate Bench in WP No. 1304 of 2010 and by order dated July 13, 2012 the Hon'ble Coordinate Bench has specifically discussed the issue at a length and it is observed that:

"Upon considering the facts and circumstances, it is evident that none of the documents which have been referred to by the respondents can establish that at the stage of creating a new post tsunami A & N Islands (after the devastation caused by the tsunami), the Administration took a policy decision, in accordance with law, that a distinction would be allowed between the rich and the poor and/or between the big farmers and poor farmers and even if such a decision had been taken, it would have been hit by Article 14 of the Constitution of India. In this case, the fact remains that the petitioner is also a farmer, though registered as a company under the Companies Act. Its activities are farming and therefore, it cannot be said that it is either a big farmer or a rich farmer or a more privileged farmer. The fact remains that it is a farmer dealing in farming activities and providing employment to at least 120 families who are receiving direct and regular employment from the petitioner-company. In other words, the petitioner-company is also a provider of employment to those who themselves occupy their time in farming activities and are not so well off.

Nothing has been brought on record, save and except bald statements made in the affidavit-in-opposition, that the Scheme was meant only for 'small' and 'marginal' farmers. In fact, Annexure R-1 is

an office order No.1124 issued by the Deputy Commissioner setting up a Committee of Officials for different locations to assess the damages caused in the Ferrargunj Tehsil by the tsunami/earth quake on 26.12.2004. It does not say anywhere that the exercise would be confined within 'small' and 'marginal farmers. Annexure R-2 appears to be a list of farmers but it does not throw any light nor lends any support to the respondents qua their arguments that the Scheme was for "small' and 'marginal" farmers only and not for. Companies. Annexure R-3 is also a document which does not lend support to their submissions as referred to above. Similarly Annexure R-3 at page 41 also cannot be allowed to be used by the respondents to say that the Scheme was meant only for 'small' and marginal' farmers."

9. The said order dated 13.07.2012 was challenged by the Administration before the Hon'ble Division Bench and the said appeal was dismissed by order dated 04.03.2013. It appears from the record that the said concurrent findings still hold good and therefore without reversing the said findings by judgement of the Hon'ble Apex Court, the Administration cannot take up the said issue once again. However, by order dated 28.03.2024 in writ petition No. 189 of 2022 the Coordinate Bench directed the Administration to reassess and compensate the petitioner as per policy dated 30.07.2012. Both parties filed separate Appeals but the appeal preferred by the Administration was allowed whereas the appeal filed by the company was dismissed by the Hon'ble Division Bench by an order dated 08/11/2024, and further the Administration was directed to dispose of the representation filed by the writ petitioner on 07.03.2018 in accordance with law, and the same was done by the order dated 15.01.2025 and being aggrieved, the writ petitioner carried the

matter to the Hon'ble Apex Court, and the Hon'ble Court directed the petitioner to approach this court on the legality of the order dated 15.01.2025.

10. However, it is on record that from the very beginning the writ petitioner is claiming compensation as per policy dated 30.07.2012. The record shows that the Administration has admitted the possession of the petitioner company on the relevant land till 2014. The compensation has been prayed for on account of the Tsunami which took place on 26.12.2004. Admittedly the petitioner was in possession of the said land as a grantee prior to the Tsunami. The order dated 15.01.2025 also discloses that the petitioner No.1 was the recorded tenant in respect of subject land. Needless to mention, the owner of all the land in Andaman and Nicobar Islands is the Administration and, the policy dated 30.07.2012 which contains the condition in 4 (i), implies surrender of possession of land to the owner. Therefore if the petitioner company No.1 is desirous of surrendering their possession in favour of the Administration, the writ petitioner company is entitled to claim compensation in respect of the relevant land being damaged due to natural calamity which took place in the year 2004. Needless to repeat, from the documents submitted by the Administration it appears that inspection in respect of subject land has been carried out

from the side of the Administration and the report dated 09.04.2018 discloses that as per documents made available by the party including photographs of standing crops/trees it can be presumed that 'there existed a scientifically spaced and managed coconut and areca nut plantation on the subject land'.

11. As the Administration has already admitted that the grant of the petitioner company expired in 2014, it is indirectly admitted that in 2004 the company had the possession over the subject land. However, whether the possession of the petitioner No.1 on the relevant land can be extended or not is the subject matter of the Civil Suit which this Court does not wish to interfere with and the learned Civil forum shall dispose of the said suit without being influenced by any of the observations made in this order. In view of the above discussion, the order dated 15/01/2025 passed by the Assistant Commissioner, Relief and Disaster Management, South Andaman District is set aside.

12. However, I direct the Administration to pay the admissible compensation to the writ petitioners in accordance with relevant rules subject to compliance of condition 4 (i) of the policy F.No. U-13018/1/2010-ANL dated 30.07.2012 within twelve weeks from the date of this order.

13. The writ petition is thus disposed of.

14. Urgent photostat certified copy of this judgment, if applied for, may be supplied to the parties upon compliance of usual formalities.

(APURBA SINHA RAY, J.)