

# Sri Rajesh Kumar Mandal vs Chief Secretary on 31 March, 2022

BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH,  
KOLKATA

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ORIGINAL APPLICATION No.76/2020/EZ  
IN THE MATTER OF:

Sri Rajesh Kumar Mandal  
S/o Sri Badri Mandal,  
East, Saupipara near Dolphine School,  
Vidyapati Udyan, Post-Saupi Para,  
PS-Nischinda, Dist.: Howrah-711206

....Applicant(s)

Versus

1. The State of West Bengal  
Through the Chief Secretary,  
Nabanna, 13th Floor, 325, Sarat Chatterjee Road,  
Mandirtala Shibpur, Howrah-711102

2. The Bally Gram Panchayat,  
Ghoshpara Road, Bally, Howrah,  
West Bengal-711227

3. The Commissioner of Police, Howrah  
28 N Mukherjee Road,  
Nityadhan Mukherjee Road, Howrah Railway Station,  
Howrah, West Bengal-711101

4. West Bengal State Pollution Control Board  
Paribesh Bhaban,  
10A, Block-A, Sector-III,  
Salt Lake, Kolkata-700106

5. The Panchayat & Rural Development,  
Through Additional Chief Secretary,  
Joint Administrative Building,  
7th Floor, Block HC, Plot No.7,  
Wing B, Sector III, Salt Lake,  
Kolkata-700106

6. Sri Suman Kumar Jha,  
East Sapuipara, Near Dolphin School,  
P.O.-Sapuipara, P.S.-Nischinda,  
Dist.-Howrah-700106

....Respondent(s)

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COUNSEL FOR APPLICANT:

Mr. Ashok Prasad, Advocate

COUNSEL FOR RESPONDENTS:

Mr. Sudip Kumar Dutta, Advocate for R-1, 3 & 5,  
Mr. Prithwish Basu, Advocate for R-4,  
Mr. Arnab Dutta, Advocate for R-6

JUDGMENT

PRESENT:

HON'BLE MR. JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER) HON'BLE  
M R . S A I B A L D A S G U P T A ( E X P E R T M E M B E R )

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Reserved On: - 28th March, 2022 Pronounce On: - 31st March, 2022

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1. Whether the Judgment is allowed to be published on the net? Yes

2. Whether the Judgment is allowed to be published in the NGT Reporter? Yes  
JUSTICE B. AMIT STHALEKAR (JUDICIAL MEMBER) Heard the learned Counsel  
for the Applicants as well as the learned Counsel for the Respondents and perused  
the documents on record.

2. The Original Application has been filed by the Applicant with the allegations that Respondent No.6 has taken up construction of a building on a pond/pukur (Doba) situated in the R.S. Dag No.6200 and 6203 Khatian No.4558, J.L. No.4 and/or 14, Mouza Bally near Dolphin School, P.O. Sapuipara, P.S. Nischinda, Howrah District, West Bengal. Due to such construction it is stated that the area surrounding the site has been affected adversely proving deleterious to the inhabitants. It is contended that no consent has been obtained or other requisite statutory clearance before undertaking such construction. In support of his contentions the Applicant has filed certain complaints made by residents of the area in question to the District Magistrate, Howrah and Commissioner of Police, Howrah etc.

3. Notices were issued to the respondents and counter- affidavits/responses have been filed by the Respondents.

4. The Respondent No.6 has filed an affidavit and denied the allegations made in the original application.

5. An affidavit dated 19.08.2021 has been filed by the Officer in- Charge, Nischinda Police Station, stating that from perusal of the order passed by the District Land and Land Reforms Officer, Howrah in Memo No.Conv.165/Bally/08/1216/1/LR dated 11.06.2008 and addressed to the Block Land & Land Reforms Officer, Bally-Jagacha for correction of Record of Rights (ROR) in respect of conversion case No.Conv.165/Bally/08 by regularization under Rule 166 (ii) of West Bengal Land & Land Reforms Manual, 1991 and other documents, it was seen that the Plot Nos.6200 and 6199 had

already been converted to 'Bastu'. Documents in support of the contentions have also been filed along with this affidavit. The order of the District Land & Land Reforms Officer, Howrah dated 11.06.2008 has also been filed by way of evidence (page No.83 of the paper book) which reads as under:-

Name of Mouza & R.S. Kh. R.S. Plot Area (in Changed the J.L./Sheet No. No. dec.)  
From To Petitioner No. Suman Bally 858 6200 6.47 Pukur Bastu Kumar Jha 14 6199  
1.73 Bagan Bastu S/o Debanand Jha

6. An affidavit dated 01.10.2021 has also been filed by District Land & Land Reforms Officer, Howrah wherein it is stated that a field enquiry of the land in R.S. Plot No.6200 corresponding to L.R. Plot No.22579 and R.S. Plot No.6203 corresponding to L.R. Plot No.22582 of Mouza Bally, was carried out through the Revenue Inspector, Block Land and Land Reforms Officer, Bally-Jagacha, Howrah, and it was revealed that on Plot No.6200, there is a five storied building. On R.S. Plot No.6203, an English Medium School is running and some pucca building is also standing thereon. The records also show the classification of the two plots as being 'Bastu'.

7. The Respondent No.4, West Bengal Pollution Control Board however, in paragraph 8 of its affidavit has stated that the inspecting officer of the State Board however, could not observe any water body at the project site but the document enclosed with the original application shows Dag No.6200 as 'Pukur'. We are shocked at the totally slipshod manner in which the Senior Environmental Engineer, West Bengal Pollution Control Board has filed his affidavit dated 01.10.2021 relying upon the documents filed along with the original application rather than calling for the records from the State Government and thereafter submitting his report. In the ordinary course of business the Senior Environmental Engineer instead of merely referring to the documents filed by the Applicant in the original application should have verified the status of the land from the land records available with the State Government which has not been done and therefore, a wholly dubious inspection report has been filed stating that the Dag No.6200 from the documents (Porcha) enclosed with Original Application No.76/2020/EZ is 'Pukur'.

8. However, upon scrutiny of the documents on record, we find that on 11.06.2008 the District Land & Land Reforms Officer, Howrah, has passed an order making corrections in the Record of Rights (ROR) in respect of conversion case No.Conv.165/Bally/08 and in exercise of power under Rule 166 (ii) of West Bengal Land & Land Reforms Manual, 1991 has allowed regularization of Plot No.6200 from Pukur to Bastu.

9. We may note that the Respondent No.6 in his affidavit has filed the Deed of Conveyance by which he has purchased the plots in question from Sri Kirparam Goel, Sri Sitaram Goel and Sri Dhaniram Goel and in this Deed of Conveyance the plots in question have been described in the Schedule appended thereto and in this Schedule

only part of Dag No.6200 is mentioned as 'Pond' whereas Dag No.6203 is mentioned as 'Bastu'. We, therefore, find that the dispute if at all was only with regard to Dag No.6200 and only a part thereof was Pond whereas Plot No.6203 was never shown to be a Pond.

10. However, the District Land & Land Reforms Officer, Howrah in her affidavit has very clearly stated that as per land records R.S. Plot No.6200 (L.R. Plot No.22579) and R.S. Plot No.6203 (L.R. Plot No.22582) are classified as 'Bastu' and not 'Pukur'.

11. No rejoinder affidavit has been filed by the Applicant disputing the order of the District Land & Land Reforms Officer, Howrah dated 11.06.2008 which has been filed as Annexure-R-2 of the affidavit of the Officer in-Charge, Nischinda Police Station.

12. For reasons stated hereinabove, we find no merit in the present Original Application and the same is accordingly dismissed.

13. There shall no order as to costs.

..... B. AMIT STHALEKAR, JM ..... SAIBAL DASGUPTA,  
EM Kolkata March 31, 2022 Original Application No.76/2020/EZ MN