

10.12.2020

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W. P. A. 16005 of 2019

**Siraj Haq
Vs.
The State of West Bengal & Ors.**

Mr. Siraj Haq ... petitioner in person.

Mr. Susovan Sengupta
Mr. Subir Pal ... For State.

Petitioner appears in person. His earlier attempts to have the writ petition heard resulted in the writ petition having been listed today as 'Specially Fixed Motion' marked at 10-45 a.m.

He submits, he is owner in respect of a pond, which is at dag no. 717 in Block Murari J.L. no. 106. He draws attention to the record disclosed from page 22 onwards in the writ petition and at page 25, his submission stands corroborated. He then draws attention to first annexure in the writ petition, being communication dated 27th February, 2017 made by Executive Assistant, Dumurgram Gram Panchayat in response to query made by petitioner under Right to Information Act, 2005. The communication says, inter alia, no permission, in respect of the holding, has been obtained, till that date, for making construction. He then refers to memo dated 9th July, 2019 (handed up) whereby Block Land and Land Reforms Officer wrote to Chairman, Block Level Water Bodies Environment Committee and Block Development Officer of concerned block that the plot is recorded with classification pond.

Some parts of the pond are used for residential purpose by persons named in the memo. He submits, he has demanded justice from all concerned authorities but to no avail.

Mr. Sengupta, learned advocate, Senior Government Advocate appears on behalf of State and submits, according to petitioner, he has complaints in respect of a wetland. As such, petitioner must take recourse to remedy under applicable Act providing for wetlands, also containing statutory remedy of appeal. He submits further on reliance of section 4C in West Bengal Land Reforms Act, 1955 that there is provision for change of character of the land as might be applied for by petitioner.

Petitioner has demonstrated he is owner of the plot. He has not applied for conversion or change of character of the plot. Instead he is complaining of unauthorized construction on the pond. There is material on record to show that both, concerned gram panchayat and the administration, have stated that there is no permission for construction on the plot described as 'pukur'. As such, submission made on behalf of State is of no help for adjudicating this writ petition.

Section 23 in West Bengal Panchayat Act, 1973 provides for control of building operations. It is clearly provided that no person shall erect any new structure or new building, having specified area, within the jurisdiction of a gram panchayat, except with

permission in writing from it. Sub-section (6) in section 23 is set out below: -

“Where [any new structure or new building or any addition to any structure or building is being or has been erected or made, as the case may be,] in contravention of the provisions of sub-section (1), the authority may, after giving the owner of such building an opportunity of being heard, make an order directing the demolition of the building by the owner within such period as may be specified in the order and in default the authority may itself effect the demolition and recovered the cost thereof from the owner as a public demand.”

Concerned respondents, in particular the gram panchayat, will initiate demolition proceedings in respect of construction at the plot bearing description pond, being subject-matter of this writ petition, within two weeks from date of communication of this order. The proceeding will be concluded within four weeks from commencement. On a finding arrived at in the proceeding regarding unauthorized construction, there must be demolition forthwith thereafter. Otherwise the panchayat will pass a reasoned order as to how the construction can be permitted to stand, made known to petitioner within that time.

With above directions the writ petition is disposed of.

(Arindam Sinha, J.)