

19.02.2021
Ct. 24
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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 10401 of 2020
(Via Video Conference)

Gour Hari Garain & Ors.
-Vs-
The State of West Bengal & Ors.

Mr. Syed Shamsul Arefin,
... for the petitioners

Mr. Pantu Deb Roy,
Mr. Anand Farmania,
... for the State

The learned advocate-on-record of the petitioners is granted leave to implead the Superintendent of Police, Birbhum as a party respondent in the instant writ petition. Formal service of a copy of the writ petition upon the added respondent is dispensed with, as the learned Additional Government Pleader is already representing the other State authorities in the instant writ petition.

None appears on behalf of the Pradhan, Batikar Gram Panchayat and the respondent No. 8 despite service.

The petitioners allege illegal filling up of a water body and making construction thereon by the private respondent. The petitioners with the aforesaid allegation approached this Court on an earlier occasion by filing a writ petition being W.P. 22694(W) of 2019, which was heard and disposed of by an order dated 17th December,

2019. The Court directed the State authorities to continue and culminate the proceedings initiated by them against the private respondent for illegally filling up the water-body.

In compliance of the order passed by the Court, the Block Land & Land Reforms Officer, Illambazar, Birbhum directed the private respondent to produce all documents in support of the construction that was being made over the Plot No. 3505 under Mouza-Batkar (JL No. 02). The Block Land & Land Reforms Officer specifically observed that approximately 7-8 decimal of land out of 48 decimal has been recorded as “Pukur” and the same has been filled up by the private respondent for making unauthorized pucca construction. The construction has already been completed up to the level of the roof.

As there was no response from the private respondent, the Block Land & Land Reforms Officer made a further communication to the private respondent directing him to re-instate and re-establish the character of that portion of the land back to its initial status as ‘Pond’ within seven days from the date of receipt of the letter. It was clearly mentioned that as he failed to submit suitable documents relevant to the ownership of the land and also making the construction thereon, the building which was constructed, has been treated as “unauthorized construction” by illegally occupying the pond.

The Block Land & Land Reforms Officer made a formal complaint to the Officer-in-Charge, Panrui Police Station against the private respondent and in response to the complaint filed, the police have registered an F.I.R and initiated a proceeding under Section 4D of the

West Bengal Land Reforms Act, 1955 on 18th August, 2020.

The petitioners pray for a direction upon the District Magistrate, Birbhum for restoration of the water body.

The learned advocate appearing on behalf of the State respondents has submitted a report, wherefrom it appears that the Block Land & Land Reforms Officer has taken necessary steps in response to the complaint filed by the petitioner and an F.I.R has already been registered against the private respondent by the police.

As it appears that the private respondent is not taking any steps to restore the water body to its earlier status by demolishing the illegal and unauthorized construction being made thereon accordingly, the District Magistrate, Birbhum, being the respondent No. 5 herein, is directed to take all necessary steps for demolition of the unauthorized construction in the aforesaid premises and restore the water body to its earlier status within a period of six months from the date of communication of a copy of this order.

The Superintendent of Police, Birbhum, being the added respondent herein, shall render all necessary assistance to the District Magistrate, Birbhum at the time of demolition of the unauthorized construction and restoration of the water body.

WPA 10401 of 2020 stands disposed of.

The report dated 7th January, 2021 filed by the Block Land & Land Reforms Officer. Illambazar, Birbhum in Court today is retained with the records.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(**Amrita Sinha, J.**)