

WPO No. 242 of 2021
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

MR. SOUMITRA KANTI DEY
VERSUS
THE STATE OF WEST BENGAL & ANR.

BEFORE:
The Hon'ble JUSTICE RAJASEKHAR MANTHA
Date: 26th July, 2021.

(Via Video Conference)

Appearance:
Mr. Rohit Das, Adv.
Ms. Kishwar Rahman, Adv.
Mr. Indradeep Das, Adv.
For the petitioner.

Mr. Manoj Malhotra, Adv.
Mr. Suman Dey, Adv.
For the State.

The Court :- The writ petitioner has been charge-sheeted under the provisions of Section 11(1) of The West Bengal Trees (Protection And Conservation In Non-Forest Areas) Act, 2006 arising out of Case No. 70 of 2017 dated 27th February, 2017. He has been charged with cutting about 63 trees under the garb of removing stagnant water.

The writ petitioner has applied for compounding of the offence in terms of Section 16 of the said Act of 2006. It is submitted that the hacking

of trees occurred in course of compliance with a notice of the Kolkata Municipal Corporation to remove stagnant water that accumulated in the property to discourage disease-carrying insects.

The cutting of trees has nothing to do with the removal of accumulated water. Yet under the garb of removing water, as many as 62 (sixty two) trees have been cut. Compounding has also been sought on the ground of the petitioner is a first time offender and that he is willing to replant double the number of trees in the said plot or anywhere else that the Forest Department may direct.

It appears that the owners had intended to construct a seven star hotel at the said premises.

While the entreaties made by the petitioner appear to be attractive, one cannot loose sight of the fact that each tree, totaling 62 (sixty two) in numbers has left a permanent wound on the environment. Irreparable damage has been caused to society by the conduct of the petitioner.

Given the heinous crime committed this Court the impugned order dated 5th January, 2019 does not otherwise call for interference.

However, considering the fact that punishing the writ petitioner with limited amount of imprisonment under the 2006 Act would not bring back the trees, compensating the State/Forest Department/Society would be just and fair penalty, penance and retribution. The compensation shall be used to develop the environment in general and maintenance of better vigil against illegal tree felling. This Court is, therefore, inclined to permit compounding of the aforesaid offences mentioned in the aforesaid charge-

sheet only upon payment of Rs. 40 (Forty) crores to the respondent no.2 within a period of 15 days from date. The petitioner and/or the owner of the property M/s. Emaar India Limited would additionally have to plant and ensure growth of about 100 trees on the said premises at No. 11 Russel Street, Kolkata 700071.

It is made clear that the payment of the said amount would not ipso facto entitle the petitioner to develop the property. The same would be subject to permission of all the authorities under all applicable Statutes and Rules.

With the aforesaid direction, the writ petition is disposed of.

(RAJASEKHAR MANTHA, J.)

Snn.