

20 **04.07.2022**

gd/ssd

WPA(P)/221/2022
GOUTAM ADHIKARI

VS

THE STATE OF WEST BENGAL AND ORS.

Mr. Debabrata Saha Roy,
Mr. Lakshminath Bhattacharya
..for the Petitioner

Mr. Lalitmohan Mahata,
Mr. Supratim Dhar
..for the State

Mr. Atarup Banerjee,
Mr. Bapin Baidya,
Ms. Poulomi Roy
..for the Private Respondents

The allegation in this petition is that Dag No.1141, Mouza – Dakshin Durgapur, Police Station – Kultali, District – South 24-Parganas is classified as “Mach Chas Gheri” and the stand of the petitioner is that the entire area of about 48 acres of that Dag is a water body, therefore, no illegal construction can be allowed on that water body.

The stand of the State as also the private respondents is that in respect of an area of about 2.01 acre the Civil Suit being T.S. 302 of 2020 is pending in which the Trial Court has passed the order of temporary injunction on 22.12.2020. Further stand of the private respondents is that the Civil Suit is at the instance of one Dibakar Safui and the present petition has been filed on the basis of the document obtained under the RTI by the said Dibakar Safui. His further

stand is that the petitioner along with the brother of Dibakar Safui had filed the representation before the concerned authority and now he has filed the present petition.

Having heard the learned counsel for the parties and on the perusal of the record, it is noticed that undisputedly the Civil Suit is pending only in respect of 2.01 acres of land whereas the allegation of unauthorised construction is in respect of the entire area of 48 acres of the said Dag number. Once the suit is pending and the competent Court is examining the issue, then it would not be proper by this Court to allow the controversy to be agitated before any other forum in respect of suit land of 2.01 acre but in respect of remaining area of about 46 acres of land the representation of the petitioner, annexure "P-3", sent on 20th April, 2022 is pending before the respondent no.2 i.e. District Magistrate, Alipore, Kolkata.

Hence, we dispose of the present petition directing the respondent no.2 to duly consider the petitioner's representation in respect of the land of the Dag in question excluding the area which is the subject matter of pending civil suit. The District Magistrate will give due hearing to all the concerned parties and will carry out the enquiry, if required and if on the land in question any unauthorised construction is found, then

will take action to remove the same in accordance with law.

Let this exercise be completed within a period of four months from the date of receipt of a copy of this order.

The petition is, accordingly, disposed of.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)

