

19.01.2022
Court No. 19
Item no.8
sn

WPA 12024 of 2021

Shirajul Islam Molla
Vs.
The State of West Bengal & Ors.
(Through Video Conference)

Mr. Parashar Baidya
Mr. Bhaskar Prosad Banerjee
Mr. Partha Sarathi Das ... for the Petitioner

Mr. Anirban Roy,,ld.G.P.
Mr. Raja Saha
Ms. Tansuree Chanda ..for the State

Mr. Soumyajit Bhatta ..for the respdt.no.5

Mr. Sandip Ghose
Mr. Sudarson Roy
Mr. Debayan Ghosh ..for the Municipality

The allegation of the petitioner is that the respondent no.5 has constructed a housing project on L.R. Dag no. 418,421,422,423,426/609,420, pertaining to J.L. No.6, Mouza Gouripur under North Dum Dum municipality. According to the petitioner, the said plots of land were classified as ponds (pukur) in the record of rights and without proper conversion of the said plots. The housing complex has been constructed in violation of the law by illegally filling up the ponds. The petitioner has alleged that the construction is in violation of the provisions of Section 17A of Inland Fisheries Act, 1984 as also the provisions of West Bengal Municipal Building Rules, 2007 and the West Bengal Town &

Country (Planning and Development) Act, 1979. The municipal authorities was also approached by the petitioner with a request for cancellation of the sanction plan, which according to the petitioner was obtained by practising fraud upon the municipality.

Mr. Bhatta, learned advocate appearing on behalf of the respondent no.5 has produced a bunch of documents to show that the aforesaid lands were converted under Section 4C of the West Bengal Land Reforms Act, 1955 by two orders dated September 24, 2014 vide conversion of case no.W-42/2014 & W-43/2014 of ADM&DI & IRO, North 24 Parganas and the said orders were passed in favour of the erstwhile owner of the said plots of land, which was subsequently sold to the respondent no.5. It is further submitted that thereafter construction was made as per the sanction granted by the North Dum Dum municipality which was completed some time in 2021. The requisite application with fees for issuance of the completion certificate was made on August 11, 2021 before the North Dum Dum municipality. According to Mr. Bhatta, due to the pendency of the writ petition, the completion certificate had not yet been granted.

The records of rights have been produced before this Court, from which it appears that the

records have already been changed subsequent to the conversion of the said land.

Thus, I do not find any reason to interfere with the writ petition.

The Chairperson of the Board of Administrator, North Dum Dum municipality has also submitted through his learned advocate that due to pendency of the writ petition, the occupancy certificate has not been issued although intimation of the completion has been given by the respondent no.5.

The Court sitting in writ jurisdiction can only review whether the municipality had acted in accordance with law. In view of the records produced before this Court by the respondent no.5, the contentions of the petitioner do not appear to be correct. If the petitioner is aggrieved with the order of conversion, the petitioner may approach the appropriate forum.

The petitioner has not been establish that the alleged construction has been done illegally over a pond, thereby violating the statutory provisions.

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)