

04
20.09.2022
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 14096 of 2021

**Amar Nath Karmakar & Anr.
-versus
The State of West Bengal & Ors.**

**Mr. Manas Kumar Das.
...For the Petitioner.**

**Mr. Pratip Kumar Chatterjee.
...For the Respondent
Nos. 3 and 4.**

Affidavit-of-service filed in Court today is taken on record.

The petitioners are aggrieved by the communication dated 20th July, 2021 made by the Executive Officer of Kandi Municipality whereby the permission sought for by the petitioners for sanction of the building plan has been refused on the ground that the plot in question is recorded as 'Pukur Par' in the present record of rights.

The petitioners have annexed the permission for changing the use and character of land under Section 4C of the West Bengal Land Reforms Act, 1955 dated 7th February, 2020 issued by the Collector and the District Land and Land Reforms Officer, Murshidabad whereby permission has been granted for converting the classification of the land from 'Pukur Par' to 'Viti'.

The petitioners submit that as the land in question is no longer recorded as 'Pukur Par' and necessary permission for conversion has been issued, accordingly, the Municipality ought to permit the petitioners to make construction thereon.

Learned advocate appearing for the Kandi Municipality submits that prior to the conversion being made, the Collector and District Land and Land Reforms Officer did not make the necessary consultation with the Municipality as envisaged under Section 4C (4A) of the West Bengal Land Reforms Act, 1955 as amended by the West Bengal Land Reforms (Amendment) Act, 2005.

The petitioners have annexed the sketch map to show that the construction will be made by the side of the pond, but it appears from the said sketch map that by the side of the pond there is a concrete road in Plot No. 3915. The water body exists in the Plot Nos. 3914 and 3917.

From the sketch map that has been annexed to the writ petition, it does not appear that there is any space left between the pond and the concrete road for making construction.

In the event any construction is permitted by the bank of the pond, the same may cause harm to the pond itself.

The petitioners have also made a prayer for cleaning the pond.

The Municipality shall take into consideration the prayer of the petitioners for giving permission to clean the pond.

An order shall be passed and communicated by the Municipality upon consideration of the prayer of the petitioners for cleaning the pond within a period of six weeks from the date of communication of this order.

The Court does not find any error with the impugned order rejecting the prayer of the petitioners to make construction on the 'Pukur Par'.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)