

Item No. 42

23.09.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 14069 of 2022
Moktar Ali Molla

v.

The Kolkata Municipal Corporation & Ors.

Mr. Saikat Chatterjee
... for the petitioner.

Mr. Soumya Mukherjee
... for the WBPCB.

Mr. Malay Singh
Mr. Bibekananda Tripathi
... for the State.

Mr. Mohinoor Rahaman
Mr. Sk. Abumusa
Mr. Sirajul Haque Mondal
... for the respondent no. 13.

Mr. Dhrubajyoti Ghosh
Mr. Somnath Maiti
... for the respondent no. 14.
Vakalatnama Filing No. A 20302
Dated 19.9.2022.

Mr. Srijan Nayak
... for KMC.

The grievance of the petitioner is that construction is being made over a water body by illegally filling up the same and without taking any sanction from the Kolkata Municipal Corporation.

It appears that a complaint was filed by the petitioner and an FIR was lodged before the police which resulted in the Nadial Police Station Case No. 68 of 2015. The said case appeared before the Court of the learned Additional Chief Judicial Magistrate, Alipore, South 24 Parganas and by order dated December 18,

2020 the Court was pleased to hold that that investigation has been conducted properly in the said case and the matter has been disposed of.

The Court recorded in the order dated December 18, 2020 that record-of-rights was placed before the Court wherefrom it transpired that the plots in question were, in fact, not water bodies. Conversion had already been placed as per norms. The Court was satisfied that the investigation was conducted properly.

The report in the final form filed by the Investigating Officer was accepted by the learned Court below.

It appears from the instruction given by the Officer-in-Charge, Nadial Police Station that the investigation into the case has been closed declaring as FRT no. 20 dated November 5, 2018.

The learned advocates representing the private respondents submit that conversion of the land in question was made in accordance with the provisions of law. Plan has been sanctioned for making construction and construction is being made in accordance with the plan sanctioned.

Learned advocate representing the West Bengal Pollution Control Board submits that immediately on receipt of a complaint from the petitioner the matter was forwarded to the Kolkata Municipal Corporation.

Upon hearing the parties it appears that though the petitioner claims that there exists a water body, but the order of the learned Criminal Court clearly mentions that there is no existence of the water body. The land in

question was duly converted from the water body to facilitate construction.

In view of the submissions made on behalf of the parties and on the basis of the materials placed before this Court it appears that the allegation of the petitioner that the plot in question is a water body is not substantiated.

No relief can be granted to the petitioner in the instant writ petition.

The writ petition fails and is hereby dismissed.

Report filed by the Officer-in-Charge, Nadial Police Station be retained with the records.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)