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rkd Ct.15

W.P.A. 15661 of 2017
(Through Video Conference)

Sri Anup Kumar Ganguly
-vs-
The State of West Bengal & Ors.

Mr. Haradhan Banerjee,
Mr. Amitava Paine,
Mr. Manideepa (Paul) Roy

....for the petitioner.

Mr. Atis Kumar Biswas,
Mr. Suman Chakraborty

....for the respondent no.6.

Mr. Rajendra Chaturvedi

....for the Municipality.

This writ petition pertains to filling up of a pond which was there under Dag No.7003, Khatian No. 1651 under Mouza-Rishra within the jurisdiction of Rishra Municipality and the petitioner has made an allegation in the present writ petition that upon filling up the pond a construction has been unauthorizedly made which is contrary to the relevant provisions of Inland Fisheries Act, 1984 as amended from time to time as well as the relevant provisions of the West Bengal Municipal Act, 1993.

Writ petitioner has prayed for demolition of such structure which has been erected upon filling up of the said pond. During course of such submission, Mr. Banerjee, learned advocate brought it to the notice of this Court that one show

cause notice was issued by the Chairman of Rishra Municipality dated 19th September, 2014 to some of the trustees but not to the petitioner and one of such trustees is Prabir Kumar Ganguly who is the private respondent in the present writ petition.

On behalf of the writ petitioner it has been contended, proceeding initiated by issuing show cause notice dated 19th September, 2014 should be brought to logical conclusion. This Court has asked Mr. Banerjee whether the petitioner has lodged any formal complaint against such unauthorized construction but this Court is unable to get any satisfactory answer. On the contrary it is submitted that the writ petitioner who described himself as the son of one of the trustees and the pond/structure in question is a trust property he has right to raise objection against such unauthorized construction. On perusal of the writ petition, this Court does not find that any formal complaint had been lodged in this regard praying for demolition of such construction.

Therefore, no order can be passed placing reliance on the show cause notice dated 19th September, 2014 due to failure on the part of the petitioner to make contemporaneous complaint against such unauthorized construction.

Accordingly, the writ petition stands dismissed.

However, this order shall not preclude the petitioner to make complaint, if any unauthorized construction has been carried out on the plot of the land in question upon filling up the pond. If such complaint is lodged by the petitioner within fortnight before the concerned authority of Rishra Municipality as well as Department of Fisheries, the Municipality as well as the Department of Fisheries are requested to take steps on the basis of such complaint in accordance with law.

(Saugata Bhattacharyya, J.)