

16 27.03.2023

WPA(P)/84/2023

gd/ssd

ARABINDA GHOSH AND ORS.
VS
THE STATE OF WEST BENGAL AND ORS.

Mr. Sankha Ghosh,
Mr. Biswarup Nandy
..for the Petitioners.

Mr. Tapan Kumar Mukherjee,
Ms. Saheli Mukherjee
..for the State.

Mr. Tapash K. Bhattacharyya,
Mr. Aviroop Bhattacharya
..for the Municipality.

The affidavit of service filed by the petitioners is taken on record.

The allegation in this public interest petition is that there is a pond which is commonly record as “Das Pukur” comprising of an area of 40 Sataks situated in R.S. and L.R. Dag No.274, J.L. No.21, Mouza-Katwa. Further allegation is that the private respondents after purchasing part of the said pond are raising illegal construction by filling up the pond.

Learned counsel for the petitioners has submitted that earlier a case was initiated being M.P. No.639 of 2010 wherein the Executive Magistrate, Katwa on

13.12.2014 had passed the restraint order, but even thereafter construction had continued and no action has been taken. He has referred to various photographs enclosed with this petition in support of the plea raised.

Record reflects that the mass representation dated 30.11.2022 has already been submitted before the respondent no.7 i.e. Assistant Director of Fisheries, who is stated to be the competent authority to decide such an issue.

Learned counsel for the State has fairly submitted that there is no objection in considering the petitioners' representation by the respondent no.7. The issue, which the petitioners have raised, requires factual enquiry which can more appropriately be done by the competent authority.

Hence, we dispose of the present petition by directing the respondent no.7 to duly consider the petitioners' representation dated 30.11.2022 after giving an opportunity of hearing to all the concerned parties and after carrying out the spot inspection. If any illegal filling up of the pond or illegal construction thereupon is found by the respondent no.7, then due expeditious action in accordance with law will be taken.

Let this exercise be completed within a period of three 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.)

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