

03.04.2023
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**WPA 11578 of 1999
With
I.A. No.CAN 1 of 2000 (old CAN 743 of 2000)**

**Smt. Malina Rani Das & Ors.
Vs.
The State of West Bengal & Ors.**

Mr. Anirban Ray, Ld. G.P.
Md. T.M. Siddique
Mr. Nilotpall Chatterjee for the State

Ms. Priyanka Jana.....for the respondent nos.
9 to 12

Mr. Aloke Kr.Ghosh
Mr. Dilip Kr. Chatterjee.....for the KMC

1. None appears for the petitioners. We have heard Md. T. M. Siddique, learned Advocate for the State, Ms. Priyanka Jana, learned Advocate for the respondent nos.9 to 12 and Mr. Aloke Kumar Ghosh, learned Advocate for the Corporation.

2. The writ petition was filed in the year 1999 praying for issuance of a writ of mandamus to see that the character of land and/or use of pattern of tank situated in Rakhal Ghosh Lane, Police Station – Beliaghata, District – North 24 Parganas should not be changed and / or that the trees standing on the bank of the tank should not be cut and removed by the private respondents.

3. The writ petition has been adjourned from time to time and an affidavit has been filed on behalf of the respondent nos.2 to 5 affirmed on 25th January, 2022. Till date, no exception has been filed to the said affidavit by the writ petitioners. The deponent of the affidavit is Executive Engineer (Civil), Environment and Heritage Department, Kolkata Municipal Corporation.

4. It is submitted that an inspection was conducted on 6th August, 2021 with a view to ascertain the present status of the matter and during the local enquiry, it was found that there exists a water body just beside the premises no.35/H/2, Rakhal Ghosh Lane, which is surrounded by some dwelling houses, boundary walls and some trees. It is stated that the water body was found to be more or less in good condition and no work of filling up the same was noticed during the inspection. Further, as per NRSA (Aerial Map), no water body has been found in the above subject premises but as per departmental tank list, a pond exists at the premises no.41, Rakhal Ghosh Lane with pond serial no.243 and as per the tank list, the area of the pond is 1350 square meters. The affidavit filed by the Executive Engineer (Civil), Environment and Heritage Department, Kolkata Municipal Corporation is taken on record and there will be a direction to Kolkata

Municipal Corporation to ensure that the water body / pond is preserved and no encroachment shall be made in the said pond.

5. With the above observations, the writ petition along with the connected application stand disposed of.

6. There shall be no order as to costs.

7. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T. S. SIVAGNANAM)
ACTING CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)