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13.10.2023
d.p.

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

W.P.A 11320 of 2023

**Tapan Kumar Som
-versus
The State of West Bengal & Ors.**

**Mr. Achinta Kumar Banerjee,
Mr. Bikash Kumar Roy,
Mr. Tarun Kumar Chatterjee,
Mr. Soumen Chatterjee.
...For the Petitioner.**

**Mr. Asish Kumar Guha,
Mr. Anirban Datta.
...For the State.**

**Mr. Arindam Das,
Mr. Abhijit Bose.
...For the Respondent
Nos. 8 and 9.**

**Md. Bani Israil.
...For the intervenors/Writ Petitioners
in PIL matter (WPA (P)/2021).**

The petitioner is aggrieved by the act on the part of the Berhampore Municipality in breaking open the padlock of the petitioner's landed property which was initially recorded as water body but thereafter, converted to viti.

According to the petitioner, the conversion of the water body to viti was made in accordance with the provisions of law and upon permission being granted by the District Land and Land Reforms Officer, Murshidabad.

Learned advocate appearing for the Municipality submits that an opportunity of hearing was given to the petitioner for production of relevant documents but the petitioner failed to produce any such document in support of the conversion made.

Learned advocate appearing for the State respondents has obtained instruction from the Additional District Magistrate and the District Land and Land Reforms Officer, Murshidabad mentioning that the permission was granted to the petitioner for filling up the water body. The conversion certificate was duly issued and the petitioner has created a compensatory water body. All formalities at the end of the District Land and Land Reforms Officer were duly complied with by the petitioner.

Learned advocate who appeared on behalf of the petitioners in a Public Interest Litigation being WPA (P) 325 of 2021 (Pankaj Kumar Majumder & Ors. –vs- The State of West Bengal & Ors.) seeks to intervene in the instant writ petition.

It has been submitted that the permission granting conversion is under challenge before the West Bengal Land and Land Reforms Tribunal and the said case is pending consideration.

Upon hearing the parties and upon perusal of the materials on record, it appears that the Municipality took steps in the matter without taking into consideration the documents relied upon by the petitioner pertaining to conversion of the classification of the land and creation of compensatory water body.

The State respondents and particularly the Additional District Magistrate and District Land and Land Reforms Officer has admitted that all formalities were complied with by the petitioner at the time of obtaining permission for filling up the water body.

In view of the above, the act of the Municipality in breaking open the pad lock to enter into the petitioner's property, cannot be supported.

The petitioner is directed to forward all documents in support of the conversion and creation of compensatory water body to the Municipality immediately. The Municipality is directed to peruse the same and make necessary correction in the municipal records. The Municipality is directed to open the padlock and deliver possession to the petitioner latest by 17th October, 2023.

The Municipality is restrained from interfering with the peaceful possession of the plot in question till any contrary order is obtained from the competent Court.

The Court is of the opinion that the presence of the intervenors is not required to adjudicate the instant proceeding. The intervenors will be at liberty to take steps in accordance with law before the Tribunal where the appeal is pending.

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.)