

17.07.2023
Item No.7
gd/ssd

WPA(P)/345/2023
GOURNAGA CHOWDHURY AND ORS.
VS
STATE OF WEST BENGAL AND ORS.

Mr. Sankar Prashad Dalapati,
Mr. Pritam Choudhury,
Mr. Safik Dewan,
Mr. Arka Bhattacharya
..for the Petitioners.

Mr. Samrat Sen, Id. AAAG,
Mr. Arindam Chattopadhyay,
Mr. Arindam Mandal
..for the State.

1. By way of a public interest litigation the petitioners seek for a direction upon the respondents to stop filling up of the water body lying and situated at Mouza-Karjana, J.L. No.56, Dag No.1273, Khatian No.1085, measuring about 1.87 acres and for constituting High Power Committee to enquire the local public and to submit a report as why the private respondents have filled up a water body.

2. The petitioners had earlier approached this Court and filed WPA(P) 439 of 2022 which was disposed of by directing the District Magistrate, Purba Burdwan to enquire into the matter.

3. Pursuant to such direction, notices were issued to the petitioners and the private respondents and enquiry has been conducted and a detailed order has been passed.

4. From the order it is seen that the field enquiry was also conducted on 21.09.2022 and it is stated that the private respondents are all patta holders and are cultivating the land for a long time and the land is to be used for agricultural purpose and the patta was granted in the year 1981. Further, it is stated that on field enquiry it is found that more or less ten decimals of the said plot is found to be a water body where no patta has been allotted.

5. The petitioners have not challenged the order passed by the District Magistrate but would submit that in this public interest litigation such a relief need not be sought for.

6. In our considered view, the appropriate authority has conducted a field enquiry after notice to the petitioners and the private respondents and all of them appeared and it is found that the pattas were granted in the year 1981 and the authority has also found that the land which was classified as “pukur” filled up in the usual course of nature without any deliberate action and the said change had taken place before 24.03.1986. Therefore, at this juncture, the question of disturbing the status quo does not arise. However, we note from the order passed by the District Magistrate dated 8th December, 2022 an extent of more or less ten decimals is found to be a water body. The authority shall ensure that the same is retained as a

water body and no patta should be granted in respect of the said water body to any other third parties.

7. With the above direction, the writ petition stands disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)