

20.06.2024
Item No.24
gd/ssd

WPA(P)/199/2024

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

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

Mr. Lalit Mohan Mahata
..for the State.

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

Mr. Mrinal Kanti Ghosh,
Mr. Anirban Sarkar
..for the Respondent No.12.

1. This is the second time that the petitioner is before this court alleging that the private respondent has illegally and unauthorisedly put up a boundary wall and converted the water body.

2. In the earlier writ petition direction was issued to the Executive Officer, Katwa Municipality, Purba Burdhaman to enquire into the matter.

3. The Executive Officer issued notice to the parties. Heard their advocates and passed a speaking order on 31.07.2023 ordering the private respondent to

remove the boundary wall on the Western Side of the pond and restore the original position of the pond by removing the soil at the Western Part of the embankment within 15 days from the date of receipt of the said order dated 31.07.2023.

4. The petitioners state that the order has not been complied with and the authorities have not taken any action.

5. The learned advocate appearing for the private respondent has produced a photograph to show that the private respondents have demolished the boundary wall.

6. However, the learned advocate for the Executive Officer of Katwa Municipality submitted that action ought to have been directed to be taken by the Assistant Director of Fisheries. Nonetheless, this court directed the Executive Officer to take a decision and order has been passed.

7. Further, the learned advocate would submit on instruction that the boundary wall which was removed has once again been re-erected and the pillars still continue to remain.

8. As could be seen from the photographs produced by the private respondents, the pillars are intact and the bricks are lying in the area.

9. As long as the order passed by the Executive Officer of Katwa Municipality continues to

remain in force. The private respondents are bound to implement the same.

10. Accordingly, there will be a direction to the private respondents to immediately remove the boundary wall and restore the previous condition of the pond and its embankment to the satisfaction of the Board of Councillors.

11. This direction shall be complied with by the private respondents within 15 days from the date of receipt of the server copy of this order, failing which, the Katwa Municipality as well as the office of the Assistant Director of Fisheries Department and all other officers shall demolish the boundary wall as well as the pillars, the foundation and remove the unauthorised filling up of the pond and restore the pond and its embankment to its original condition and recover the entire charges from the private respondents.

12. In the event the private respondents failed to comply with this order, the authorities are also entitled to lodge criminal complaint against the private respondents.

13. To oversee the demolition activities and to implement the order, the 11th respondent, namely, the Officer in Charge of the Katwa Police Station is directed to provide adequate police assistance.

14. With the above directions, the writ petition stands disposed of.

15. Affidavit of service filed today be kept with the record.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)