

11. 23.04.2024
Court No.655
(Tanmoy)

(ASSIGNED)

WPA/14964/2023

**SHRI PARIMAL KANTI ROY AND ORS.
VS
THE STATE OF WEST BENGAL AND ORS.**

Mr. Mahim Sasmal, Adv.
...for the petitioners.

Mr. Tapas Kr. Adhikari, Adv.,
Mr. Amritlal Chatterjee, Adv.
...for the State.

1. Affidavit of service filed in Court today be kept with the records.
2. Learned Counsel appearing on behalf of the petitioners is present.
3. The State is represented by the learned Counsel.
4. There is no representation on behalf of rest of the parties.
5. It is stated that the present petitioners are the owners of the plot of land situated under Ward No.10 within Mouza- Ichlabad, under L.R. Khatian No. 8723 being L.R. Plot No.528, under the Burdwan Municipality. It is further stated that some portion or part of the said plot of land has been forcibly occupied by the Burdwan Municipality and allegedly erected an illegal vat thereon. At the time of survey done by the Municipality it was found that the said plot of land belongs to the present petitioners. These petitioners made several representations before the Municipal

Authorities with a prayer for vacating the said portion of the plot of land but till date it has not vacated the same.

6. The present petitioners have made representations before the Municipal Authority as it appears from Annexure "P-3" (page 26 of this writ application) but no steps has been taken on behalf of the Municipal Authorities to remove the said illegal construction and vat from the said plot of land.
7. The present petitioner has been served with notice by the Burdwan Municipality under sub section 10(a) of section 17A of the West Bengal Inland Fisheries Act, 1984 with a direction upon him to convert the said plot of land to pond.
8. The attention of this Court is drawn to an order sheet dated December 18, 2023, passed by the Chairman, for and on behalf of the Board of Councillors of Burdwan Municipality. The said order is quoted below:-

"In connection with the aforesaid matter hearing is taken up today after serving proper notice to all concerned. The undersigned took the chair and presided over the meeting. That Manjusha Roy remain present on behalf of her father. That the matter was discussed at length but she could not mention the names of the wrong doers who had made the construction at the site owned by Parimal Kanti Roy and she also stated that they wanted to demolish the same. That a notice for hearing was pasted on the newly constructed wall. But none appeared as such the matter is taken up ex parte. This is a fit case for demolition. In such view of the facts it is unanimously resolved that the owner of the land may be asked to

demolish the said illegal construction within fortnight, otherwise Chairman, Burdwan Municipality is hereby authorized to demolish the same and cost of demolition will be recovered from the petitioner.

Hence, the matter is disposed of. Information be given to all concerned for taking further steps.”

9. From Annexure “P-3” of this writ application it appears that the said Manjusha Roy has made a representation before the Burdwan Municipality with a prayer for taking appropriate step in respect of her grievance.
10. The respondents no(s). 4 and 5 i.e., the Chairman and the Vice-Chairman of the Burdwan Municipality are hereby directed to consider and dispose of the representation dated 19.04.2023 addressed to the Chairman, Burdwan Municipality by the petitioner within one month from the date of communication of this order strictly in accordance with law.
11. A spot inspection shall be conducted to ascertain the nature and extent of allegation as made by the petitioner. In the event the aforesaid respondents are of the considered opinion that there is substance in the allegation then necessary step shall be taken to deal with such allegation immediately as per provision of relevant Act and Rule.
12. The opposite parties no(s). 4 and 5 is further directed that the opportunity of being heard should be given to all the necessary parties before passing any order in connection with the representation filed by the petitioners.

13.The aforesaid respondents shall restrict the consideration of the representation of the petitioner with regard to alleged construction and erection of vat on the plot in question and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

14.The petitioner is directed to forward a copy of the representation dated 19.04.2023 to the aforesaid respondents at the time of communicating the order of the Court.

15.Accordingly, WPA/14964/2023 stands disposed of.

16.Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Prasenjit Biswas, J.)