

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 307 of 2025

Sushil Bhakat
Versus
The State of West Bengal & Ors.

Mr. Uttiya Ray
... For petitioner.

Mr. Subhasis Bandopadhyay
... For the municipality.

Mr. Subrata Karmakar
Mr. Md. Ali Ahasan
Mr. Prince Akhtar
... For the respondent no.8.

1. Affidavit of service filed in Court is taken on record.
2. The present writ petition has been filed, inter alia, claiming that the municipality without considering that the original R.S. plot no.2635, Mouza – Bardhaman was recorded as a pond, had purported to issue a sanctioned building plan without adhering to the provisions of Inland Fisheries Act, 1984. According to the petitioner, the sanction that has been granted by the municipality is without authority. Although, the petitioner had made a complaint with the municipality, such complaint has not been adhered to. In support of his aforesaid contention, the petitioner has placed reliance on the C.S. record of rights as also R.S. record of rights, inter alia, including the documents dated 9th February, 2022 wherein the municipality has recognized existence of pond on the plot

in question and has allegedly cancelled the holding number.

3. Both the municipality and the private respondent are represented. The private respondent has, however, placed before this Court the L.R. record of rights pertaining to plot no.3322, Mouza – Bardhaman, Khatian No.16823, J.L, No.30 to demonstrate that the said plot is recorded as “VITI” and not as a pond/‘pukur’. According to the private respondent, the aforesaid writ petition is not maintainable as classification dispute cannot form subject matter of challenge before this Court in exercise of its writ jurisdiction under Article 226 of the Constitution of India at the first instance.

4. Having heard the learned advocates appearing for the respective parties, I find it is true that originally the plot no. 2635 was classified as pond in the R.S. record of rights. Records would, however, demonstrate that the said plot had been sub-divided into five several plots in the L.R. record of rights, being plot nos. 3321, 3322, 3323, 3324 and 3448. Incidentally, L. R. record of rights would identify that these plots have been recorded as “VITI” and not as a pond. The copies of the L.R. record of rights as placed before this Court by the learned advocate for the private respondent is retained with the records.

5. Though, the learned advocate for the petitioner would insist that this Court should direct that the representation of the petitioner to be considered especially having regard to the alleged cancellation of holding

number by the municipal authorities, however, this Court is of the view that since the matter pertains to an exercise of authority within the provisions of West Bengal Land Reforms Act, 1955 which is a specified Act as defined in Section 2(r) of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997, this Court ought not to exercise jurisdiction at the first instance.

6. The writ petition is accordingly dismissed, leaving it open to the petitioner to seek appropriate remedy, if so advised.

(Raja Basu Chowdhury, J.)