

328 **28.11.
2025**

Ct. No.
551

Ab

WPA 2664 of 2025

**Sk. Jahangir @ Haji Sk. and others
Vs.
The State of West Bengal and others.**

**Mr. Moniruzzaman,
Mr. Jahangir Badsha.**

... for the petitioners.

**Mr. Ranjit Kumar Roy,
Mr. Krishna Deo Das.**

... for the respondent nos. 7 to 9.

1. This writ petition alleges inaction on the part of the District Magistrate, South 24-Parganas, i.e. the respondent no. 2 in the writ petition in taking steps upon the petitioners' representation dated January 9, 2025.
2. It is submitted by the petitioners that the respondent nos. 7 to 9 have been illegally trying to fill up a pond whereof the petitioners are also users and the co-owners. It is stated that against such illegal activities of the said respondents, the petitioners have made a representation before the District Magistrate, South 24-Parganas, who is the competent authority to oblige to act in terms of Section 17A(2) of the West Bengal Inland Fisheries Act, 1984 but no action has been taken by the said District Magistrate.
3. Learned Advocate appearing on behalf of the respondent nos. 7 to 9 submits that this writ petition suffers from suppression of material facts inasmuch as the petitioners have suppressed the fact that a suit concerning the same property being Title Suit No. 1681 of 2024 filed by the respondent nos. 7 to 9 has been pending before the learned Civil Judge (Senior Division) , 7th Court at Alipore wherein an ad interim order of injunction has been

passed directing the parties to maintain *status quo* in respect of nature, character and possession of the suit property. It is submitted that the interim order that had been passed earlier is still subsisting and is to continue till January 28, 2026.

4. Learned advocate appearing on behalf of the petitioners submits that although the factum of the pendency of the suit has not been mentioned in the writ petition yet, the suit only relates to title over the pond in question and the representation made before the District Magistrate is for the purpose of restoration of the pond to its original position in accordance with the provisions of Section 17A(10)(a) of the said Act of 1984.
5. Heard the learned Advocates appearing on behalf of the respective parties and considered the material on record.
6. It is true that the petitioners have not mentioned about the pendency of the suit, yet, having regard to the prayer made in the writ petition i.e. stoppage of illegal earth filling in water body/pond/doba and restoration of the water body to its original position, non-mentioning of the pendency of the suit would not amount to suppression of a material fact that may warrant dismissal of the writ petition.
7. In such view of the matter, it would be appropriate to direct the District Magistrate, South 24-Parganas to consider the representation dated January 9, 2025 made by the petitioners and take steps in accordance with the provisions of Section 17A of the said Act of 1984 to ensure that the water body, if any, is not filled up as also to take appropriate steps for its restoration in case the same has been partly or fully filled up.
8. It is needless to mention that the exercise which may be undertaken by the District Magistrate

under Section 17A of the said Act of 1984 or any order passed by the District Magistrate in any proceeding initiated under the West Bengal Inland Fisheries Act, 1984 would not have any effect on the Title Suit pending before the learned Civil Judge (Senior Division), 7th Court at Alipore inasmuch as the competent authority under the said Act of 1984, will only have the authority to ensure preservation of the water body and restoration thereof in case the same is filled up.

9. It is made clear that this Court has not gone into the merits of the petitioner's case and the District Magistrate shall be free to take a reasoned decision, strictly in accordance with law upon conducting appropriate enquiry as required by law.
10. It is also clarified that if it is found that a pond originally existed and that the same has been filled up either partly or fully or has been interfered with in anyway, the District Magistrate shall take appropriate steps to restore the same to its original position in accordance with law, after giving an opportunity of hearing to all interested parties as expeditiously as possible.
11. WPA 2664 of 2025 stands disposed of.
12. Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Om Narayan Rai, J.)

