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2025
TUESDAY

Court : CB-07
Item : DL-03
Bench : SINGLE
Matter : WPA
Status : DO
ID : 266057
AR : NANDY

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 9355 OF 2021

M/S. G.T.R. COMPANY (P) LTD. & ANR.
VS.
THE STATE OF WEST BENGAL& ORS.

MR. PROBAL KUMAR MUKHERJEE, SR. ADVOCATE
MR. KAUSHIK DEY, ADVOCATE
MR. SOUMYAJIT MISHRA, ADVOCATE

.....for the Petitioners

MR. AMALES RAY, SR. ADVOCATE
MS. MOUSUMI BHOWAL, ADVOCATE
MR. SOUMYAJIT MISHRA, ADVOCATE

.....for the South Dum Dum Municipality

MR. SUSOVAN SENGUPTA, ADVOCATE
MR. MANAS KUMAR SANDHU, ADVOCATE

.....for the State

1. The affidavit of service filed in Court today is taken on record. Despite service the private respondents are not represented.
2. The dispute involved in this writ petition originates from the illegal filling of a water body and its subsequent restoration to its original state.
3. The petitioner alleges that the private respondents, without obtaining any permission from the competent authority, have converted the water body into solid land. This act has prompted the petitioner to approach this Court, seeking issuance of a writ of mandamus directing the concerned respondents to take appropriate steps against the illegal filling of the water body and to restore it to its original state.
4. Mr. Probal Kumar Mukherjee, learned Senior Advocate appearing for the petitioners, draws attention to the record of rights in respect of three plots of land bearing R.S. Nos. 742, 743, and 845, situated in Mouza Purba Sinthi, J.L. No. 22, Ward No. 14 of South Dum Dum Municipality, District – North 24 Parganas. He submits that these plots were

classified as 'pond' in the records and belonged to the private respondent.

5. Mr. Mukherjee submits that the said pond/water body was subsequently filled up illegally and converted into solid land by depositing external earth. The petitioners, through several representations, brought this matter to the attention of the competent authority. Pursuant to these representations, an enquiry was conducted under the supervision of the Assistant Director of Fisheries, and the Department of Fisheries ultimately concluded that the water body had indeed been filled up.
6. Mr. Mukherjee submits that although the enquiry revealed the water body was illegally filled, various authorities functioning under the State are now adopting inconsistent positions and shifting responsibility from one to another. As a result, they are effectively evading their responsibility and failing to act in accordance with the law of the land. He prays for an appropriate direction to ensure that the water body is ultimately restored to its original condition. Mr. Mukherjee further submits that the private respondents have commenced construction on the said land, and asserts that such construction is still ongoing.
7. Mr. Susovan Sengupta, learned Advocate representing the State, drawing attention to the provisions of Section 4C(5A) of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as the 'Act of 1955'), submits that the District Magistrate & Collector is the sole authority responsible for taking steps to restore the plots to their original condition. According to Mr. Sengupta, the entire

responsibility lies with the District Collector, as the character of the land has been illegally altered.

8. Mr. Amalesh Roy, learned Senior Advocate, entered appearance on behalf of the Municipality.
9. Undeniably, the plots of land referred to in the preceding paragraphs were classified as ponds. The record of rights indicates that the provisions of Section 4C of the 1955 Act are applicable to these plots of land.
10. A communication dated 20th February 2017 from the Assistant Director of Fisheries to the Executive Officer of the Municipality reveals that an enquiry conducted under the supervision of the Assistant Director of Fisheries confirmed that the waterbody, comprising the three plots of land, namely, 742, 743, and 845, had already been filled.
11. However, the dispute took a new turn when the Executive Officer of South Dum Dum Municipality, in his communication dated 20th July 2017 addressed to the Additional District Magistrate and the Block Land and Land Reforms Officer, North 24-Parganas, expressed doubt regarding his authority. He questioned whether, in exercising the powers of the competent authority under the West Bengal Inland Fisheries Act, 1984 (hereinafter referred to as the 'Act of 1984'), he could take the necessary steps to restore the character of the aforementioned plots. According to him, such powers were vested in the Department of Fisheries under Section 17(1)(10) of the Act of 1984."
12. Subsequently, the Assistant Director of Fisheries, through his communication dated 18th December 2020, requested the Executive Officer of the Municipality to take appropriate action in his

capacity as the competent authority under the Act of 1984, as notified in Notification No. 1748-Fish dated 20th July 2007."

13. Recognizing the necessity of preserving water bodies in their original state, the legislature felt compelled to incorporate specific provisions in both statutes, namely the Act of 1955 and the Act of 1984.
14. It is expected that there should be coordination among all State departments for the smooth functioning of governance and for ensuring good administration. A Municipality acts as a parastatal entity of the State, functioning indirectly on its behalf. The illegal filling of a water body within a Municipal area places collective responsibility on the Municipality, the Department of Fisheries, and the District Collector to address the issue and take preventive and/or appropriate measures.
15. As noted earlier, the record suggests that the plots have been illegally filled and converted into solid land. This action violates the relevant provisions of both the 1955 Act and the 1984 Act.
16. Section 17(10) of the Act of 1984 empowers the competent authority to take necessary steps to restore a plot to its original character. Similarly, Section 4C of the Act of 1955 prescribes the procedure for addressing the issue of the illegal filling of a water body and outlines the appropriate steps for its restoration. In the present case, the communication from the Assistant Director of Fisheries indicates that the Executive Officer can also act as the Competent Authority within the meaning of the 1984 Act.
17. Therefore, after considering these aspects, giving careful thought to the submissions made by the

respective parties, and upon reviewing the materials on record, I direct the District Magistrate & Collector, North 24-Parganas, to take appropriate steps to restore the water bodies corresponding to the concerned plot numbers to their original character.

18. The Director of Fisheries and the Executive Officer of the Municipality are directed to extend full cooperation to the District Magistrate. It is clarified that all these authorities shall act in concert and take all necessary steps, in accordance with the law, to ensure the restoration of the water body to its original state.
19. The entire exercise shall be completed within 12 weeks from the date of communication of this order to the concerned authority.
20. Till the restoration work is completed, no construction work shall be carried out and around the those plots.
21. With these observations and order, the writ-petition being **WPA 9355 of 2021** is **disposed of**.

(PARTHA SARATHI CHATTERJEE, J.)

