

01.08.2025  
Ct. No.3  
Sl. No.5  
akd

**W. P. A. 14073 of 2024**

*[Uttam Kumar Pal & Ors. -Vs- The State of West Bengal & Ors.]*

Mr. Pratip Kumar Chatterjee  
Mr. Gautam Banerjee  
... ... for the petitioners

Mr. Sauradeep Dutta  
Mr. Himadree Ghosh  
... for respondent nos.12 & 13

Mr. Ujjal Ray  
Mr. Atreya Chakraborty  
... ... for respondent no. 16

Mr. Rajdatta Chattopadhyay  
... ... for the Municipality  
[Tarakeswar Municipality]

1. Affidavit-of-service filed in court today is taken on record.
2. The petitioners, by way of the present writ petition, challenge the inaction of the respondent-Tarakeswar Municipality in failing to take appropriate steps against the alleged illegal construction carried out by the private respondent nos.12 to 16 at the premises in question, situated at Mouza – Bhata, J.L. No. 21, Sabek Dag No. 646, Hal Dag No. 1015, measuring about 27 decimals of land classified as ‘Doba’ land.
3. It is the case of the petitioners that that the private respondent nos.12 to 16 are engaged in filling up of a water body situated within the aforementioned premises, which belongs to them. The water body has been traditionally used by the petitioners and other local villagers for the purpose of bathing, washing and other daily necessities, therefore, filling up of the water body is likely to cause irreparable loss and hardship to the petitioners and the community at large.

4. In light of the above, the petitioners had earlier filed a Public Interest Litigation being W.P.A. (P) 401 of 2023, alleging that the private respondent nos.12 to 16 were illegally filling up the said water body. However, during the course of hearing in the said matter, it came to light that the private respondent nos.12 to 16 have obtained permission from the competent authority, vide order dated 21.08.2023, to carry out such filling of the water body. Consequently, the Public Interest Litigation was disposed of, granting liberty to the petitioners to challenge the said permission in an appropriate proceeding. Pursuant thereto, the petitioners preferred an appeal under Section 54 of the West Bengal Land Reforms Act, 1955, which is presently pending adjudication.

5. In the meantime, the private respondent nos. 12 to 16 commenced construction activities on the said land. The petitioners submit that they have raised multiple objections and filed several complaints alleging that such unauthorized construction will lead to filling up of the entire water body. Subsequently, in response to an application filed under the Right to Information Act, the respondent-Tarakeswar Municipality, by its letter dated 26.04.2024, informed the petitioners that the building plan in respect of the subject premises has been sanctioned on 01.04.2024. The petitioners further contend that the permission granted for filling up of the water body is improper, arbitrary and legally unsustainable, and the same has already been challenged in appeal, and is pending adjudication. It is further submitted that during pendency of the said appeal, despite being aware of the ongoing legal proceedings, the respondent-Tarakeswar Municipality, proceeded to sanction the

building plan in favour of the private respondent nos.12 to 16. According to the petitioners, such construction would severely prejudice their rights and interests, and has compelled them to file the present writ petition.

6. Learned counsel for the private respondent no.16 submits that the respondent-Tarakeswar Municipality has sanctioned the building plan after conversion of the land from '*Doba*' to '*Bastu*' in accordance with law.

7. Learned counsel for the private respondent nos.12 and 13 adopts the submissions made on behalf of the private respondent no.16.

8. Learned counsel for the respondent-Tarakeswar Municipality submits that the said sanction has been accorded only after the private respondent nos.12 to 16 have complied with all the statutory requirements and formalities, as mandated by law.

9. This Court has heard the arguments advanced by the learned counsel for the respective parties and has perused the materials placed on record.

10. The primary grievance of the petitioners relates to the alleged unauthorized construction being carried out by the private respondent nos.12 to 16. However, it is evident from the communication dated 26.04.2024, issued in response to an application under Right to Information Act, that the construction is being undertaken pursuant to a duly sanctioned building plan. Moreover, the private respondent nos.12 to 16 have obtained the requisite permission for filling up of the water body. The appeal preferred by the petitioners against the order dated 16.06.2023 permitting filling up of the water body is still pending.

11. It is also not in dispute that there exists no statutory bar preventing the Tarakeswar Municipality from sanctioning the building plan during the pendency of the appeal under Section 54 of the West Bengal Land Reforms Act, 1955. It is further noted that the sanctioned plan has also not been challenged in the present proceeding.

12. In light of the above, this Court finds no illegality or infirmity in the actions of the private respondent nos.12 to 16 at this stage. The petitioners have failed to demonstrate any violation of law or procedural impropriety that would warrant interference by this Court in exercise of its jurisdiction.

13. Thus, the writ petition is devoid of any merit and accordingly, the same is dismissed.

14. Since no affidavits have been filed by the respondents, the allegations made in the writ petition shall not be deemed to have been admitted.

15. There shall be no order as to costs.

16. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

**(Gaurang Kanth, J.)**