

Item No.6&7
11.07.2025
Court. No. 19
GB

W.P.A. 16288 of 2023
With
W.P.A. 21159 of 2023

M/s. Sterling Finvest Private Limited
Vs.
The State of West Bengal & Ors.

*Mr. Partha Chakraborty,
Mr. Rishab Dutta Gupta,
Ms. Debanjali Patra*

...for the Petitioner.

*Mr. Soumitra Bandyopadhyay,
Mr. Srinath Singha Roy*

*...for the State
(in WPA 16288 of 2023).*

*Mr. Santanu Mitra,
Ms. Kalpita Paul*

*...for the Respondent Nos.5 & 6
(in WPA 16288 of 2023).*

*Mr. Santanu Mitra,
Ms. Rama Halder*

*...for the Respondent Nos.1 to 6
(in WPA 21159 of 2023)*

*Mr. Sirsanya Bandopadhyay,
Mr. Tirthankar Dey,
Mr. Arka Kumar Nag*

...for the B.M.C.

*Mr. Chayan Gupta,
Mr. Saaqib Siddiqui*

...for the WBHIDCO.

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1. The writ petitioner and the respondent authorities are represented by their learned advocates.
2. By filing the instant writ petition the writ petitioner has prayed for issuance of appropriate writ/writs against the respondent authorities for not giving the effect of notification dated 31.03.2006 of the East Kolkata Wetlands (Conversion and Management) Act, 2006 (hereinafter referred to as the 'said Act' in

short), which was came into effect retrospectively on and from 16.11.2005.

3. In course of his submission Mr. Chakraborty, learned advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to page nos.39 to 119, being copies of five registered deed of conveyance as have been executed in favour of the present writ petitioner.
4. It is argued by Mr. Chakraborty that from the schedules of the said registered deeds of conveyance it would reveal that the character of the purchased lands are either 'Sali' or 'Danga'.
5. It is submitted further that from page no.200 of the instant writ petition it would reveal that the said properties were mutated in the name of the writ petitioner in connection with L.R. Plot Nos.520, 521, 554 and 674 and to that effect the jurisdictional BL & LRO issued a certificate of mutation.
6. It is submitted further that from page no.225 of the instant writ petition it would reveal that on the basis of such mutation the relevant record of right in respect of the L.R. Plot Nos.520, 521, 554 and 674 have been recorded in the name of the writ petitioner and the copy of the said LR RoR clearly indicates that the said properties are either 'Danga' or 'Sali'.
7. At this juncture, Mr. Chakraborty draws attention of this Court to page no.226 onwards being the relevant gazette notification of the said Act.

8. It is submitted by Mr. Chakraborty that in the schedule of the said Act, the purchased property as mentioned hereinabove has been included wrongly, since the said lands as purchased by the writ petitioner by no stretch of imagination can be considered as a wetland and/or water body.
9. It is submitted that despite submission of representation by the writ petitioner the respondent authorities did nothing and practically sat tight over the matter. It is, thus, submitted by Mr. Chakraborty that it is a fit case for granting the reliefs as prayed for by the writ petitioner.
10. Per contra, Mr. Mitra, learned advocate duly assisted by Ms. Kalpita Paul, learned advocate appearing on behalf of the respondent authorities draws attention of this Court to the report as filed in connection with WPA 16288 of 2023. It is submitted by Mr. Mitra that he is relying the said report in connection with the instant writ petition being WPA 21159 of 2023.
11. In course of his submission Mr. Mitra draws attention of this Court to various pages of the instant writ report, more specifically from page nos.9 to 13. It is submitted by Mr. Mitra that from the report as submitted before this Court, the following would reveal:-

(a) In the year 1992, in the case of ***People United in Better Living in Calcutta (PUBLIC) & Another versus The State of West***

Bengal & Others the Hon'ble Court passed the following direction :

“There shall be an order of injunction restraining the State-Respondents from reclaiming any further wetland. There shall also be an order of injunction prohibiting the respondents from granting any permission to any person whatsoever for the purpose of changing the use of the land from agricultural to residential or commercial in the area as indicated in the map annexed to the petition and marked with letter ‘C’. The State-Respondents are further directed to maintain the nature and character of the wetlands in their present form and to stop all encroachment of the wetland area as indicated in the map annexed to the petition and marked with letter ‘C’. The State-Respondents are further directed to take steps so as to stop private alienation and, if required, by extending the statutory provisions in regard thereto.”

- (b) In the Ramsar Convention wherein India is a signatory, an inter-governmental treaty on global environment was executed.
- (c) Pursuant to the said treaty and the aforementioned judgment in the case of (**PUBLIC**), the Government of West Bengal constituted a High Level Management Committee headed by the Chief Secretary of the

Government of West Bengal, which was entrusted for demarcation of the limits of East Kolkata Wetland, preparation of maintenance of a map and a land schedule showing the boundaries of the wetland area.

(d) On 31.03.2006 the Government of West Bengal enacted the said Act along with the Schedule-I containing the list of full and part of Mouzas which come under the purview of the said Act.

(e) Plot Nos.520, 521, 554 and 674 of Mouza – Kulberia have been depicted in Schedule-I of the said Act as well as in the Schedule-II of the said Act which is a map of the relevant mouzas of the Schedule-I.

(f) In the Schedule-I of the said Act there are four types of land:-

- (i) Substantially water body oriented area
- (ii) Agricultural area
- (iii) Productive Farming area
- (iv) Urban/Rural Settlement area

(g) The said Act specifically provides that the provisions of the said Act would be applicable on all aforementioned land classification.

(h) The writ petitioner purchased the land in the year 2008 whereas the said Act came into effect

on 16.11.2005. Therefore, such purchase was made after enactment of the said Act.

(i) As per the said judgment in the case of (**PUBLIC**) as passed by this High Court in 1992, change of character of the land is prohibited.

12. Placing reliance upon the aforementioned points of the said report, it is submitted by Mr. Mitra that the writ petitioner cannot be permitted to carry on his commercial activity on such wetland and no materials could be placed before this Court that any of the provisions of the said Act is ultra vires.

13. Mr. Mitra, thus, submits that it is a fit case for dismissal of the instant writ petition.

14. On careful perusal of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, this Court has got no iota of doubt that on behalf of the respondent authorities sufficient materials have been placed before this Court that by a gazette notification dated 31.03.2006 the said Act of 2006 was brought into effect retrospectively on and from 16.11.2005.

15. Sufficient materials have been placed before this Court that the relevant plots of land over which the writ petitioner claims his ownership comes under the Mouza – Kulberia which has been included in Schedule-I of the said Act. Sufficient materials have also been placed before this Court that the writ

petitioner purchased the said properties, that is, the said plots of land much after the enactment of the said land. The report as submitted by the respondent authorities clearly indicates that any change of character of land is equally prohibited in respect of the schedule mentioned properties of the said Act.

16. It further appears before this Court that on behalf of the writ petitioner no material could be placed at the time of hearing as to why this Court will pass an order for exclusion of the purchased lands of the writ petitioner from the schedule of the said Act especially when no materials could be placed on behalf of the writ petitioner challenging the vires of the Act.

17. In course of his argument Mr. Chakraborty places his reliance upon the reported decision of ***Punjab State Power Corporation Limited & Another versus EMTA Coal Limited*** reported in **(2022) 2 Supreme Court Cases 1**.

18. In considered view of this Court, in the said reported decision of *Punjab State Power Corporation Limited* (supra) the Hon'ble Court has occasioned to revisit the doctrine of legitimate expectation. It has been held that such doctrine has got no effect when the authority takes a decision on a public interest.

19. In considered view of this Court the reported decision of *Punjab State Power Corporation Limited* (supra) is quite distinguishable from the facts and circumstances of the instant case in view of the fact that in the

instant writ petition the writ petitioner has miserably failed to place any material that the legitimate expectation of the writ petitioner is vitiated on account of arbitrary action of the respondent authorities.

20. With the aforementioned observation the instant writ petition is dismissed.

21. However, there shall be no order as to costs.

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22. Since in WPA 16288 of 2023 the writ petitioner has approached before this Court with similar such relief, the said writ petition being WPA 16288 of 2023 is also dismissed in the light of the observation made hereinabove.

(Partha Sarathi Sen, J.)