

16.01.2025
Item No.31
gd/ssd

WPA(P)/507/2024
SOURAV SINGH
VS
STATE OF WEST BENGAL AND ORS.

Mr. Om Narayan Rai, Id. Sr. Adv.
Ms. Deblina Lahiri,
Mr. Mrinmoy Chatterjee
..for the Petitioner.

Mr. Jahar Lal De,
Mr. Shamim ul Bari
..for the State.

Mr. Subhankar Nag,
Mr. Avishek Guha,
Mr. Soham Roy,
Mr. Ankush Majumdar
..for the Respondent Nos.14 to 16.

Ms. Sikta Roy
..for the Respondent Nos.18 to 21.

1. This public interest writ petition highlights a very surprising and sorry state of affairs where power under Section 4C of the West Bengal Land Reforms Act, 1955 has been exercised and the Additional District Magistrate and District Land and Land Reforms Officer, North 24-Parganas, Barasat has passed a conversion order converting a plot of land which has been classified as Khal in the record of rights into hotel. In the same plot of land which continued to remain as Khal in the record of rights was converted as Bastu and

the order of conversion is stated to have been passed on 19.7.2016.

2. On going through the order, we find there are several disclaimers, namely, that order is without prejudice to the provisions of Chapter IIB of the West Bengal Land Reforms Act, 1955; permission is without prejudice to the Urban Land and Regulation Act, 1976; permission is without prejudice to the West Bengal Town and Country (Planning and Development) Act, 1979 and the applicant will have to apply to the Government for long term settlement of the land under usual terms and conditions on payment of rent and salami, if in future the land in question is found to be vested.

3. Thus, we find the order of conversion cannot be stated to be an order which cannot be interfered or reviewed or reconsidered since it has been passed without prejudice to the several enactments. There is nothing to indicate that the private respondents who are stated to be the applicants had applied to the Government for long term settlement of the land and what are the conditions etc.

4. In any event in terms of the provisions of Rule 5A(9) of the West Bengal Land Reforms Rules, 1965 where the application as mentioned in sub-rule (1) of Rule 5A relates to permission for conversion of any land having water body of any description or size, the Block

Land and Land Reforms Officer shall also be asked to conduct necessary inquiry to ascertain if the person holding the land identified for creation of compensatory water body has permanent and transferable right, title and possession over such land and is agreeable for necessary transfer of such land for creation of compensatory water body therein. Further, the Rule stipulates that the District Land and Land Reforms Officer shall get the required report from the Block Land and Land Reforms Officer directly to save time.

5. In the instant case, we find that the order of conversion dated 19.7.2016 does not speak of any compensatory water body.

6. The question of applying for conversion of a water body for some other use can be done by a person who owns the property. If the record of rights shows that the Plot No.6 was classified as Khal, the question would be whether the private respondents could be the owner of a Khal, which is a drainage channel.

7. Therefore, we find serious infirmity in the order of conversion.

8. That apart, there is no whisper about any requirement for providing a compensatory water body.

9. Therefore, we have serious doubts as to the validity and efficacy of the order of conversion.

10. The learned advocate appearing for the private respondents submitted that the present writ

petition is not a genuine public interest litigation since the writ petitioner is the landlord of the private respondents in respect of another property situated in Kalyani and there is a civil litigation pending before the Civil Court.

11. In response to the submissions the learned advocate for the petitioner placed reliance on the decision of the Hon'ble Supreme Court in *Shivajirao Nilangekar Pail v. Dr. Mahesh Madhav Gosavi and Others* in (1987) 1 SCC 227 wherein the Hon'ble Supreme Court held even though the petitioner might have moved in his private interest but enquiry into the conduct of the examiners of the Bombay University, therein was a matter of public interest and such state of affairs having been brought to the notice of the court, it was the duty of the court to the public that the truth and the validity of the allegations made be inquired into. Further, it was held that in furtherance of public interest that an enquiry into the state of affairs of public institution becomes necessary and private litigation assumes the character of public interest litigation and such an enquiry cannot be avoided if it is necessary and essential for the administration of justice.

12. The above decision would support the case of the petitioner even assuming the bonafides of the petitioner are in doubt nothing prevents this court from

discharging the petitioner or substituting the petitioner or converting the present proceedings into a suo motu proceedings.

13. Therefore, the objection raised by the learned advocate for the private respondents regarding the maintainability of the writ petition stands rejected.

14. The learned advocate for the Municipality submitted that even as per the forged revised sanctioned plan there is a limitation of the number of floors to be constructed but additional floors have been constructed which is another illegality committed by the private respondents.

15. That apart, we find that the Halisahar Municipality has already sealed the building, issued demolition order and has also lodged a complaint before the Officer-in-Charge of Halisahar Police Station on 12.9.2024.

16. On going through the complaint we are surprised to find that the allegation against the private respondents is that they are in possession of a forged revised sanctioned plan in respect of the premises-A and this, according to the Municipality, has been created by the private respondents. Further, in respect of the premises-B it is stated that forged revised sanctioned plan replicating the stamp and signature which was attested and affixed in the back side of sanctioned plan issued, so as to portray that the revised

sanctioned plan is in respect of the premises-A which has been allowed and thereafter using the forged document before various government officers to obtain licences and permission so as to carry on premises-B. One more serious allegation is that the private respondents are also in possession of counterfeited seal of Halisahar Municipality and other instruments which were used to manufacture forged revised sanctioned plan.

17. The complaint has been received by the concerned Police Station and PS Case No.240 of 2024 dated 12.9.2024 under Sections 338, 336(3), 340(2), 318(2), 61(2) and 341(1) of BNS, 2023 has been registered.

18. We direct the Officer-in-Charge of Halisahar Police Station to complete the investigation at the earliest and proceed in accordance with law.

19. It is submitted by the learned advocate appearing for the private respondents that they have filed the writ petition before the learned Single Bench in WPA 22697 of 2024 wherein they have sought for a direction as to why their representation should not be disposed of by extending an opportunity of personal hearing and for a direction to consider and dispose of the representation and also for a direction to cancel/rescind the memo dated 31st August, 2024 which is a demolition order.

20. As on date the writ petition is pending and there are no interim orders.

21. If that be the case, there can be no fetter on the Halisahar Municipality to proceed further in pursuance to the notice which they have issued and take the matter to the logical end. One more objection that has been raised is stating that the order of conversion which was passed in the year 2016 by the Additional District Magistrate and District Land and Land Reforms Officer, North 24-Parganas, Barasat continues to remain valid.

22. In the preceding paragraphs we have mentioned that the question of converting a Khal into a hotel or Bastu would not arise.

23. Apart from that, there is no direction for compliance of the statutory requirement as provided under Rule 5A(9) of the West Bengal Land Reforms Rules, 1965.

24. Another conversion order has been passed where the land in Plots No.5 and 9 which were classified as Doba in the record of rights have been converted as Hotel/Bastu.

25. This order dated 5.9.2016 also suffers from the same illegality as that of the order dated 19.7.2016 and the illegality is apparent on the face of the order.

26. Therefore, the question of relying upon such an order by the private respondents would not in any

manner advance their case. We also have our genuine doubt as to whether the order of conversion which is relied upon by the private respondents, two orders of conversion itself is a valid document or whether it is also a case where forgery has been committed.

27. We do not wish to comment further on this matter.

28. Thus, considering the seriousness of the issue, we direct the Halisahar Municipality to proceed further pursuant to the memo issued on 31.8.2024 and take the matter to the logical end within a period of four weeks from the date of receipt of the server copy of this order.

13. With the above directions, the writ petition stands disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)