

**Government of West Bengal**  
**East Kolkata Wetlands Management Authority**  
Enacted under East Kolkata Wetlands (Conservation and Management) Act, 2006  
Poura Bhavan, 4<sup>th</sup> Floor, Bidhannagar, Kolkata- 700106  
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**ORDER**

No.CTO/EN/ 104 /385/2014-2015

Date: 22 / 04/2015

**Reasoned order issued against the prayer made by Vishal Water World (P) Ltd.**

The Vishal Water World (P) Ltd. through Sri Kishan Sonkar, Constituted Attorney petitioned the Chief Secretary to Government of West Bengal and Chairman, East Kolkata Wetlands Management Authority (EKWMA) vide dt. 12.8.2014; the petition was forwarded to the Environment Department for necessary action. Petitioner M/s. Vishal Water World (P) Ltd. requested for correction of record/conversion from water park, restaurants, guest house etc on the *bastoo* having an area of 17 acres at Dag no. 321/615, Mouza-Kochpukur, JL No. 2, (earlier Dag nos. 771-775, Mouza-Dhapa Manpur, JL No. 1) P.S. Kolkata Leather Complex, Dist. 24 Parganas (South). Petitioner expressed the intention to construct residential buildings on the land in question and requested to be given an opportunity of being heard.

Vide letter no. CTO/EN/065/385/2014-2015 dt. 20.3.2015 notice was issued for hearing by the Member Secretary, EKWMA. A *Vakalatnama* was already submitted authorizing Sri Pushan Kar Advocate, 7C, KS Roy road, 3<sup>rd</sup> Floor. Kolkata -1 by the constituted Attorney for the Vishal Water World Sri Kishan Sonkar. It is placed on record in the file. The hearing was held on 02.04.2015 at the Conference Hall of the Chief Secretary (who is also the Chairman, EKWMA) at Nabanna and was attended by the following:

**On behalf of the Vishal Water World (P) Ltd:**

1. Sri Utpal Majumdar, Advocate
2. Sri Pushan Kar, Advocate
3. Sri S.K. Himmatsingha of Ideal group

**For EKWMA:**

1. Sri Sanjay Mitra, Chief Secretary and the Chairman, EKWMA
2. Sri Chandan Sinha, Principal Secretary, Environment, Member Secretary, EKWMA
3. Ms Bonani Kakkar, Member, EKWMA
4. Swami Prananada, Member, EKWMA



Sri. Utpal Majumdar, Advocate on behalf of the Vishai Water World(p) Ltd submitted that:

- 50 acres of land were procured jointly by three firms – Vishal Water World (P) Ltd., Green Valley Towers Private Limited and Sanjeevani Projects Private Limited.
- Of the 50 acres, 17 acres of land at Dag no. 321/615, Mouza-Kochpukur, JL No. 2, P.S. Kolkata Leather Complex (KLC), Dist. 24 Parganas (South) had been recorded in the name of Vishal Water World (P) Ltd., (BL&LRO list vide 1.11.2010), while and Valley Towers Private Limited and Sanjeevani Projects Private Limited jointly hold about 31 acres of the said Dag no. 321/615.
- The Fisheries Department, Govt. of West Bengal vide its letter issued on 29.9.1997 stated that it was not possible to carry out pisciculture since no water existed there and the land was being used for paddy cultivation.
- DL&LRO, South 24 Parganas allowed the conversion of land measuring 17 acres owned by the petitioner from “Shali” to “water park” by its order dt. 29.5.2000 and issued no objection to use of the land for Restaurants, Conference hall, Towers, Water Pools, Resorts etc for commercial purposes on 01.6.2000.
- The order of conversion by DL&LRO, South 24-Parganas dt. 29.5.2000 was revoked vide letter dt. 27.12.2005 on the ground that the land in question falls within the East Kolkata Wetland area and is covered by the 1992 verdict passed by Hon’ble High Court at Calcutta.
- The Order dt. 27.12.2005 was challenged before the Hon’ble High Court at Calcutta (vide WP No. 42 of 2006).
- The matter was then taken to the Hon. Supreme Court by the owners of the balance 31 acre of the land. The Hon. Supreme Court directed the EKWMA to consider the representation.
- The petitioner has contended that the RS Dag Nos. 771-775 of Mouza-Dhapa Manpur (presently Dag no. 321/615, Mouza-Kochpukur) are recorded as “Urban/Rural Settlement area” as per the East Kolkata Wetlands (Conservation & Management) Ordinance, 2005, but in the East Kolkata Wetlands (Conservation & Management) Act, 2006 it was shown as the “Substantial water body oriented area (full)” for ‘no discernible reason.’



The respondent has prayed for granting of permission in favour of Vishal Water World (P) Ltd. to construct residential building in land in question based on the decision of the authority dated 23.10.2006 and the order of the Hon'ble Supreme Court of India dated 17.11.2006 on the ground that the Vishal water world has been discriminated against when the other two partners were granted permission to construct buildings, and has also contended that seventeen acres of area in question has already been permitted for conference hall restaurant etc. and therefore for conversion to residential construction, there should not be creation of any compensatory water body.

While considering the petition submitted by Vishal Water World (P) Ltd. as well as examining the available records the following points were considered:

- i. The RS Dag Nos. 771-775 of Mouza-Dhapa Manpur (presently Dag no. 321/615, Mouza-Kochpukur) was incorrectly shown as "Urban/Rural Settlement area" as per the East Kolkata Wetlands (Conservation & Management) Ordinance, 2005. However, this was rectified in the East Kolkata Wetlands (Conservation & Management) Act, 2006, as the "Substantial water body oriented area (full)".
- ii. It is worthy of note that the matter was taken to the Hon. Supreme Court not by the petitioners but by the owners of the balance 31 acres of land which by the order dt. 11.9.2006 directed the EKWMA to consider their representation.
- iii. Although, as stated by the petitioner, the order of DLLRO was challenged in the the Hon . High Court, it is pertinent to note that the Hon'ble High court dismissed the W.P. and upheld the DLLRO's order.
- iv. The preamble of the East Kolkata Wetlands (Conservation and Management) Act, 2006 mentions that it is "*an Act to provide for conservation and management of the East Kolkata wetlands and for matters connected therewith and incidental thereto. Whereas the wetlands act as regulator of water regime, source for underground water recharging...*". But the project does not facilitate this objective and therefore would not lead to improvement in the environment. Section 10(5) of the East Kolkata Wetlands (Conservation and Management) Act, 2006 supports the argument.
- v. In the 1993(1)CLJ People United for Better Living in Calcutta (PUBLIC) vs. State of W.B. decision dated 24.9.1992 (which ultimately led to the enactment of the East Kolkata Wetlands (Conservation and Management) Act, 2006) it is recorded that "*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.....*". The project proposal under consideration is not in compliance with said directive.



- vi. For any construction on the said land, the status of the land must be altered in accordance with the East Kolkata Wetlands (Conservation and Management) Act, 2006. Although the 12<sup>th</sup> meeting of EKWMA on 14.9.2010 agreed for the construction of housing for local people on plots designated as settlements with a guideline that prohibits any construction beyond first floor to a maximum of 8m above GL, subsequently in the 17<sup>th</sup> meeting on 28.9.11 resolved to stop NOCs given for housing as well as to repeal those which were issued earlier. Presently no conversion is permitted by the Authority.
- vii. The Wetlands (Conservation and Management) Rules, 2010 notified by Government of India came into force on 4.12.2010. Section 4(1)(vi) of the Wetlands (Conservation and Management) Rules, 2010 prohibits any construction of a permanent nature within the East Kolkata Wetlands, a protected site under RAMSAR convention.
- viii. The contention of the petitioner regarding the applicability of the Supreme Court Judgment dated 17.11.2006 with respect to Green Valley Towers Private Limited Vs State of West Bengal & Ors. is not tenable in the present context since the Wetlands (Conservation and Management) Rules, 2010 notified by Government of India came into force on 4.12.2010 after 2006 which now, clearly prohibits any construction of a permanent nature within the East Kolkata Wetlands.

In view of the above the constituted Committee headed by the Chairman, EKWMA after due examination of the case decided that NOC or a sanction order under section 10 of the East Kolkata Wetlands (Conservation and Management) Act, 2006 SHALL NOT BE GRANTED to the petitioner the Vishal Water World (P) Ltd. The decision may be communicated to the petitioner with reasons as recorded.

*Sanjay Mitra*  
22/4/2015  
The Chairman

East Kolkata Wetlands Management Authority