

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

No. CTO/EN/ 209/346/2012-13

Date: 30/06/2015

Reasoned Order issued against application made by Rupa Foundation to the East Kolkata Wetlands management Authority (EKWMA)

It had come to the notice of EKWMA that unauthorized construction was being undertaken in RS Dag No. 23 (Part), Mouza-Chak Kolar Khal, JL no. 1, P.S. Sonarpur, Dist. 24 Parganas (South) without prior sanction from EKWMA.

Accordingly a notice vide no-CTO/EN/2453/108(3)/12 dt. 23.08.2012 was served by EKWMA directing the violators to stop construction work and restore the land to its original status.

EKWMA received a letter from Rupa Foundation on 12.09.2012 to develop the piece of land referred above to build a "free vocational training centre" for the local people. However, CTO, EKWMA with the consent of the Chief Secretary informed the Rupa Foundation its inability to accept any such project in the East Kolkata Wetlands vide letter No. CTO/EN/215/346/13 dt. 07.08.2013.

An FIR was lodged with P.S. Sonarpur vide No. CTO/EN/190/108(3)/2013-14 (Pt-2) dt. 14/07/2014 against the Rupa Foundation for the violation involving unauthorized construction and consequently the police authorities started the case vide no. 1106 dt. 14.07.14 u/s 18 of the East Kolkata Wetlands (Conservation and Management) Act, 2006 and submitted charge sheet vide No. 79 dt. 28.01.15 against Prallahad Rai Agarwala, S/O. Baijnath Agarwala of 12 Sunny Park PS. Ballygunj, 2) Mahabul Sk. (26), S/O. Sukh Chand Sk. of Kamurdiar, P.O. Mominpur, PS. Domkal, 3) Mostafa Sk. S/O. Lt. Akamuddin Sk. of -do-, 4) Morad Sk. S/O. Rajaul Sk. of -do-, and 5) Jakir Mondal, S/O. Fajjuddin of -do-.

Rupa Foundation through Sri Kunj Behari Agarwala, Trustee applied in format to the EKWMA (received on 27/01/2015) for permission to change of use of land character from agriculture to *bastu* for setting up Rupa Technical Training Institute as Vocational Training Institute measuring 30000 sft at the RS Dag No. 23, Mouza-Chak Kolar Khal, JL no. 1, P.S. Sonarpur, Dist. 24 Parganas (South).

Vide letter no. CTO/EN/150/346/2012-13 dated 22/05/2015 notice was issued for hearing by the Member Secretary, EKWMA. The hearing was held on 01/06/2015 at the Conference hall of the Chief Secretary at Nabanna and was attended by the following:

On behalf of the Rupa Foundation:

1. Sri Kunj Behari Agarwala, Trustee
2. Sri Lala Shyam Sundar Lal, Vice-President

For EKWMA:

1. Sri Sanjay Mitra, Chief Secretary and Chairman, EKWMA
2. Sri Chandan Sinha, Principal Secretary, Environment and Member Secretary, EKWMA
3. Smt Bonani Kakkar, Member, EKWMA
4. Swami Pranananda, Member, EKWMA
5. Dr. Dipanjana Maulik, Senior Environment Officer, Environment Department

Sri Kunj Behari Agarwala, Trustee of Rupa Foundation submitted that:

- Rupa Foundation purchased a part of land at the RS Dag No. 23, Mouza-Chak Kolar Khal, JL no. 1, P.S. Sonarpur, Dist. 24 Parganas (South) in the year 2010.
- Rupa Foundation applied for conversion of land from wetland to *Bastu* on 25.11.2010.
- After getting sanction of building plan from Pradhan, Kheadah-II Gram Panchayat on 28.02.2011, construction was started.
- EKWMA vide no-CTO/EN/2453/108(3)/12 dt. 23.08.2012 served a notice directing to stop construction work and restore the land to its original status.
- On 12/09/2012 it was requested to allow Rupa Foundation to build a free vocational training centre at the said land.
- An FIR was lodged with P.S. Sonarpur vide No. CTO/EN/190/108(3)/2013-14 (Pt-2) dt. 14/07/2014 against the Rupa Foundation for the violation involving unauthorized construction.

The applicant has prayed for granting permission in favour of Rupa foundation for conversion of land character from agriculture to Bastu for setting up Vocational Training Institute in land in question as the intention is to impart training to youth and to make them employable. It will be a nonprofit making organization and will generate employment of at least 2000 drop out students every year.

While considering the application submitted by Rupa Foundation as well as examining the available records the following points were considered:

- i. The East Kolkata Wetlands (Conservation and Management) Act, 2006 came into force on 16.11.2005. The Wetlands (Conservation and Management) Rules came in 2010. Deeds of Conveyance were dated 08.06.2010 and unauthorized construction appears to have started around 2012. By resorting to civil construction without prior approval of the EKWMA, the applicant has violated the provisions of the said Act, 2006 and Rules, 2010.
- ii. The Deeds of Conveyance show that the said land has been sold for the purpose of Agriculture. The original sellers of the plots perhaps did not sell for any other purpose.
- iii. Even if building plan has been sanctioned by Kheadah-II Gram Panchayat, the applicant cannot start construction as per section 22 of the East Kolkata Wetlands (Conservation and Management) Act, 2006.

- iv. Proposed activities in the DPR do not lead to any kind of improvement in the wetland environment [Section 10(5) of the East Kolkata Wetlands (Conservation and Management) Act, 2006].
- v. 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 ... ".The said project does not facilitate this objective.
- vi. 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.
- vii. 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 said project is not in compliance with said directive.
- viii. In WP 23860(W) of 2012 in the matter of Splendour Commercial Pvt. Ltd. & Anr. -vs- East Kolkata Wetlands Management Authority & Ors. the Hon'ble High Court of Calcutta vide its order dt. 15.7.2013 has accepted that construction of permanent nature within the wetlands is prohibited under Rule 4(1)(vi) of the wetlands (Conservation and Management) Rules, 2010.

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 applicant, Rupa Foundation. The decision may be communicated to the applicant with reasons as recorded.

Sd/-
(Sanjay Mitra)
Chairperson,
East Kolkata Wetlands Management Authority