

Government of West Bengal
Department of Environment
East Kolkata Wetlands Management Authority
Pranisampad Bhavan, 5th Floor, LB-2, Sector-III, Salt Lake, Kolkata – 700 106

Reasoned Order

No. 105 /CTO/EN/472/2022

Date: 24 .03.2022

WPA 1323 of 2022
Sandhya Sardar
Vs
State of West Bengal & Ors.

Reasoned Order in compliance with the Order of the Hon'ble High Court at Calcutta dated 23.02.2022

Background of the case:

Smt. Kamini Bayen and her daughter Smt. Sandhya Sardar submitted complaint letters to East Kolkata Wetlands Management Authority (EKWMA) against the unauthorized building construction made at RS Dag no. 1463, Mouza Dharmatala Pachuria, JL no. 06, PS Kolkata Leather Complex (KLC), Dist 24 South Parganas (hereinafter referred to as the "subject land"), which is within the East Kolkata Wetlands (EKW). On the basis of the said complaint, the EKWMA on 21.12.2021 lodged a complaint against violation of the provisions of the East Kolkata Wetlands (Conservation and Management) Act, 2006 (hereinafter referred to as the "EKW Act of 2006") with PS KLC. The police started KLC PS Case no. 07 dated 29.01.2022, which is under investigation.

As per Schedule I of the East Kolkata Wetlands (Conservation and Management) Act, 2006 the subject land is classified as "Urban/Rural settlement area (full)". As per the Record of Rights (RoR) the subject land is classified as "Bastu".

Smt. Sandhya Sardar filed WPA No. 1323 of 2022 before the Hon'ble High Court at Calcutta against Shri Rabin Bayen, Biswanath Bayen, Sankar Bayen and Samir Bayen (Respondent nos. 10, 11, 12 and 13 respectively of the instant Writ Petition) *et al* for the alleged unauthorized construction of building. From the Writ Petition it has come to the knowledge of the EKWMA that a Partition Suit bearing TS no. 3481 of 2008 was filed by the instant Writ Petitioner in Alipore Court for the same subject land, which is still pending.

While delivering its judgment dated 23.02.2022, the Hon'ble High Court has directed the EKWMA to dispose of the complaint in accordance with law upon hearing the petitioner, respondent nos. 10 to 13 and all other interested parties including Pradhan of Beonta Gram Panchayat, Dist South 24 Parganas. In compliance with the said judgment dated 23.02.2022, the EKWMA called all the interested parties including Smt. Sandhya Sardar (the writ petitioner) and all the respondents to a hearing on 16.03.2022.

Hearing:

The writ petitioner, the respondent nos. 10 to 13 along their lawyer Shri Dilip Kumar Mandal and a representative of the Officer-in-Charge of PS KLC attended the hearing. During the hearing the writ petitioner and the respondent nos. 10 to 13 stated that the aforesaid Partition Suit bearing TS no. 3481 of 2008 for partition of the subject land is still pending in the Alipore Court. The respondent nos. 10 to 13 admitted that the unauthorized construction has been made by them in the year 2021, and the same has been submitted in their written statements.

Decision of the EKWMA:

Considering the above facts, it is clear that Shri Rabin Bayen, Shri Biswanath Bayen, Shri Sankar Bayen and Shri Samir Bayen (respondent nos. 10 to 13) have made unauthorized construction at RS Dag no. 1463, Mouza Dharmatala Pachuria, JL no. 06, PS Kolkata Leather Complex (KLC), Dist South 24 Parganas. The said unauthorized building construction has been made by violating the provisions of the East Kolkata Wetlands (Conservation and Management) Act, 2006 as well as the provisions of the Wetlands (Conservation and Management) Rules, 2017. As per Rule 4(2)(vi) of the Wetlands Rules of 2017, any construction of a permanent nature is prohibited within the East Kolkata Wetlands. Therefore, respondent nos. 10 to 13 namely Shri Biswanath Bayen, Shri Sankar Bayen and Shri Samir Bayen are, hereby, directed to demolish the unauthorized building construction and restore the subject land to its previous status at their own cost **within a period of one month from the date of issue of this Reasoned Order** under Section 11 of the East Kolkata Wetlands (Conservation and Management) Act, 2006. In case of default by them, the EKWMA shall direct Kolkata Municipal Corporation (KMC) to undertake the demolition of the said unauthorized building and restoration of the subject land to its previous status, and thereafter, take steps to recover the cost thereof from the aforesaid persons.


All concerned may be informed accordingly.



Chief Technical Officer
East Kolkata Wetlands Management Authority
Department of Environment
Government of West Bengal

Copy to:

1. Hon'ble Minister-in-Charge, Environment Department,
&
Chairperson, East Kolkata Wetlands Management Authority
Government of West Bengal
2. Additional Chief Secretary, Environment Department, Government of West Bengal
3. Additional Chief Secretary, Department of Panchayat & Rural Development
4. Director of Panchayat, Department of Panchayat & Rural Development
5. District Magistrate, Dist. South 24 Parganas
6. Superintendent of Police, Baruipur Police District
7. Sabhadhipati Zilla Parishad, Dist South 24 Parganas
8. Block Development Officer, Bhangore II
9. Block Land & Land Reforms Officer, Bijoyganj Bazar, Dist South 24 Parganas
10. The Officer-in-Charge, P.S. Kolkata Leather Complex
11. Pradhan, Beonta Gram Panchayat
12. Executive Assistant, Beonta Gram Panchayat
13. Smt. Sandhya Sardar, W/o. Basudeb Sardar and D/o. Nagen Bayen
14. Shri Rabin Bayen, Shri Biswanath Bayen, Shri Sankar Bayen and Shri Samir Bayen, S/o. Late Ananda Bayen
15. Guard File


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