



Government of West Bengal
Department of Environment
East Kolkata Wetlands Management Authority
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No: **458** /CTO/EN/473/2021-2022

Date: 25.11.2022

Reasoned Order

The Hon'ble Division Bench of the High Court, Calcutta in the matter of W.P.A(P)No.360 of 2021 (Biplab Kumar Chowdhury Vs. The State of West Bengal & Ors.), vide Order dated 26.07.2022 has taken note of the fact that several unauthorized constructions have been raised at R.S. Dag No.1407 of Mouza- Dhapa Manpur, JL No.-56 (previously JL No.-01) , P.S.- South Bidhannagar, District-North 24 Parganas. The Hon'ble High Court, Calcutta *inter alia* directed the respondent authorities to take expeditious action for removal of the unauthorized constructions and file action taken report before the next date of hearing. In compliance with the aforesaid Order, the Chief Technical Officer, East Kolkata Wetlands Management Authority (EKWMA) provided the violators/occupiers with an opportunity of hearing on 07.11.2022.

CASE HISTORY:

A case was filed by Biplab Kumar Chowdhury at the High Court , Calcutta alleging filling up of wetland and permanent constructions raised at RS Dag No.1407 of Mouza- Dhapa Manpur, JL No.56 (previously JL No.01), P.S.- South Bidhannagar, District-North 24 Parganas. A field inspection was done by the staffs of EKWMA on 04.03.2022 and found that several unauthorized constructions took place at Dag no.1407 of Mouza- Dhapa Manpur. Earlier, EKWMA forwarded a complaint letter on 22.11.2018 to the Inspector-in- charge, South Bidhananagar Police Station regarding illegal construction at RS Dag No.1407 and police started case vide No.182/2018 dated 25.1.2018 and charge sheet was submitted vide No.52/19. The Hon'ble Division Bench of the High Court, Calcutta vide Order dated 26.07.2022 *inter alia* passed the following directions:

"..... Learned Counsel for the State is directed to get the demarcation done by the competent authority within a period of four weeks from today."

The respondent authorities are directed to take expeditious action for removal of the unauthorized constructions.

Let the action taken report be filed before the next date of hearing."

In compliance with the afore-said directions, demarcation of RS Dag No.1407 of Mouza- Dhapa Manpur, JL No.56 was conducted by the office of ADM&DL&LRO, North 24 Parganas, Barasat on 14.09.2022 in presence of the BL&LRO, Rajarhat, North 24 Parganas, authorized representative of EKWMA and authorized representative of Bidhannagar Municipal Corporation (BMC).

Thereafter, on 02.11.2022 hearing notice was issued by the EKWMA with the assistance of police authorities to the violators / occupiers who have made unauthorized constructions in RS Dag No.1407 to attend hearing before EKWMA on 07.11.2022 at 12.00 p.m.

The record of BL & LRO show that RS Dag No.1407 at J.L. No-56 is Government land belonging to Communication and Works Department. As there is no such Government office in the name of Communication and Works Department, Public Works Department (PWD) officials were asked to be present at the hearing. Representative of BMC was also requested to attend the hearing on 07.11.2022.

HEARING:

On 07.11.2022 the following persons attended the hearing:

- Smt. Chameli Naskar Mondol, Councillor of Ward No.36, Bidhannagar Municipal Corporation.
- Sri Sourav Chakraborty, Law Officer, Bidhannagar Municipal Corporation
- Sri Surajit Basu, Assistant Engineer, Bidhannagar Municipal Corporation
- Sri Rajib Kumar Biswas, Executive Engineer, Public Works Department
- Other 39 violators.

At the outset, the Chief Technical Officer, EKWMA briefed the persons present about the Order of the Hon'ble Division Bench of High Court, Calcutta dated 26.07.2022, in which the Division Bench of High Court, Calcutta has directed the EKWMA to take expeditious action for removal of the unauthorized constructions as mandated by the provisions of the East Kolkata Wetlands (Conservation and Management) Act, 2006.

As per the East Kolkata Wetlands (Conservation and Management) Act, 2006 the RS Dag No.1407 of Mouza- Manpur, JL No.56 plot is classified as "urban/rural settlement area".

According to Section 9 of the EKW (C&M) Act of 2006 notwithstanding anything contained in any law for the time being in force, every person holding any land in the East Kolkata Wetlands shall maintain and preserve such land in a manner that its area is not diminished, or character is not changed except with the previous sanction of the Authority.

Section 11(1) of the EKW (C&M) Act of 2006 states that if the authority is, either suo moto or on receipt of any information, satisfied that the character or mode of use of a land is being changed or has been changed in contravention of any provision of this Act, it may, by order in writing, require the person responsible for the change to restore the land at his own expense, to the original character or mode of use within such period as may be specified in the order and, in case of default by such person, undertake the restoration by itself and recover the cost thereof as arrears of land-revenue.

Provided that before passing the order the Authority shall give the person a reasonable opportunity of being heard.

From 04.12.2010 East Kolkata Wetlands (EKW) being a Ramsar site came under the purview of the Wetlands (Conservation and Management) Rules, 2010 under the Environment (Protection) Act, 1986 notified by the Government of India. As per Rule 4(1)(vi) of the said Rules of 2010, any construction of a permanent nature is prohibited within the East Kolkata Wetlands.

In the year 2017, the Wetlands (Conservation and Management) Rules, 2010 were superseded by the Wetlands (Conservation and Management) Rules, 2017. Rule 4(2)(vi) of the Wetlands Rules of 2017 retained the same prohibition as mentioned in Rule 4(1)(vi) of the Wetlands Rules of 2010.

In the present case, RS Dag No.1407 of Mouza- Dhapa Manpur, JL No.-56 (previously JL No.01), P.S.-South Bidhannagar, District-North 24 Parganas is Government land as per BL&LRO Record. The Councillor on behalf of the violators stated that the violators /occupiers are residing in the said plot generation-wise since independence. The said land in the disputed plot is not wetland but Sali land. The violators /occupiers are paying tax to the

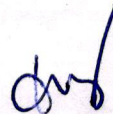
Government. A few copies of tax receipts of Land & Land Reforms along with copies of Adhaar Card, voter card, ration card, electricity bill of some of the violators/occupiers were enclosed along with the written submission.

The violators/occupiers could not submit any documents regarding rights /title in the land. No documents were submitted by them seeking permission from any authority for construction of building at any point of time. No permission was sought by the violators / occupiers from EKWMA for change of character or mode of use of land.

The PWD official present in the hearing stated that he is not aware of the fact that the land belongs to PWD. The officials from BMC stated that in R.S. Dag No.1407 no permission was granted to the alleged violators/occupiers for any construction in the area.

CONCLUSION-

Considering the above points, the Chief Technical Officer, EKWMA is of the opinion that violators /occupiers residing on R.S. Dag No.1407 have no title on the land. The constructions made on the R.S. Dag No.1407 is in violation of the provisions of the East Kolkata Wetlands Management (Conservation and Management) Act, 2006 and in violation of the provisions of the Wetlands (Conservation and Management) Rules, 2010. Hence, the violators / occupiers are directed to demolish the illegal construction on their own within 30 days of issuance of the Reasoned Order and the subject land be restored to its previous status, or else action shall be taken in accordance with law.



Chief Technical Officer

East Kolkata Wetlands Management Authority

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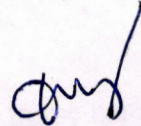
Date: 25.11.2022

Copy forwarded to:

1. OSD to Hon'ble Minister-in-Charge, Environment Department
&
Chairperson, East Kolkata Wetlands Management Authority, Government of West Bengal
2. Principal Secretary, Environment Department, Government of West Bengal
3. Commissioner, Bidhannagar Municipal Corporation
4. Commissionerate of Police, Bidhannagar Police Commission
5. Inspector-in-Charge, South Bidhannagar Police Station
6. Smt. Chameli Naskar Mondol, Councillor of Ward No.36, Bidhannagar Municipal Corporation
7. Pappu Raha, A/32, Chayanavi, Salt Lake , Sec-IV, Nowbhangra, P.S. South Bidhannagar, Kol-105
8. Sanit Pramanik, A/34, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangra, P.S. South Bidhannagar, Kol-105
9. Rakhi Bag, A/33, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangra, P.S. South Bidhannagar, Kol-105
10. Bandana Das, A/33, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangra, P.S. South Bidhannagar, Kol-105
11. Sujata Roy, A/33, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangra, P.S. South Bidhannagar, Kol-105
12. Laxmi Dey, A/33, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangra, P.S. South Bidhannagar, Kol-105
13. Sourav Chakraborty, Bidhannagar Municipal Corporation
14. Surajit Basu, Bidhannagar Municipal Corporation
15. Rekha Mahato, A/32, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangra, P.S. South Bidhannagar, Kol-105
16. Uma Chowdhury, A/32, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangra, P.S. South Bidhannagar, Kol-105
17. Tapashi Mondal, A/33, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangra, P.S. South Bidhannagar, Kol-105
18. Kanan Mitra, A/33, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangra, P.S. South Bidhannagar, Kol-105
19. Parimal Das, A/33, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangra, P.S. South Bidhannagar, Kol-105
20. Chinta Sarkar, A/33, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangra, P.S. South Bidhannagar, Kol-105
21. Arjun Garu, A/32, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangra, P.S. South Bidhannagar, Kol-105
22. Rabin Midya, A/33, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangra, P.S. South Bidhannagar, Kol-105

23. Sibu Kumar Jana, A/33, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangha, P.S. South Bidhannagar, Kol-105
24. Rajib Kumar Biswas, EE, PWD
25. Rabi Debnath, A/33, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangha, P.S. South Bidhannagar, Kol-105
26. Palash Das, A/32, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangha, P.S. South Bidhannagar, Kol-105
27. Gourav Kundu, A/32, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangha, P.S. South Bidhannagar, Kol-105
28. Soumen Mondal, A/33, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangha, P.S. South Bidhannagar, Kol-105
29. Biswajit Mondal, A/32, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangha, P.S. South Bidhannagar, Kol-105
30. Tapan Mitra, A/33, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangha, P.S. South Bidhannagar, Kol-105
31. Ranjit Thakur, A/33, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangha, P.S. South Bidhannagar, Kol-105
32. Saraswati Modak, A/33, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangha, P.S. South Bidhannagar, Kol-105
33. Gobinda Mondal, A/33, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangha, P.S. South Bidhannagar, Kol-105
34. Manu Paul, A/33, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangha, P.S. South Bidhannagar, Kol-105
35. Nipa Das, A/32, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangha, P.S. South Bidhannagar, Kol-105
36. Sukumar Das, A/33, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangha, P.S. South Bidhannagar, Kol-105
37. Saikat Das, A/32, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangha, P.S. South Bidhannagar, Kol-105
38. Nitai Sana, A/33, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangha, P.S. South Bidhannagar, Kol-105
39. Sudhil Kumar Patel, A/32, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangha, P.S. South Bidhannagar, Kol-105
40. Dinesh Thakur, A/32, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangha, P.S. South Bidhannagar, Kol-105
41. Madan Adhikari, A/33, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangha, P.S. South Bidhannagar, Kol-105
42. Uttam Das, A/32, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangha, P.S. South Bidhannagar, Kol-105
43. Meghnath Mondal, A/32, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangha, P.S. South Bidhannagar, Kol-105
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45. Ranjit Das, A/32, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangra, P.S. South Bidhannagar, Kol-105
46. Mona Mondal, A/33, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangra, P.S. South Bidhannagar, Kol-105
47. Ashim Mondal, A/33, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangra, P.S. South Bidhannagar, Kol-105
48. Ratna Prava Mahakul, A/32, Chayanavi, Salt Lake , Sec-IV, P.O. Nowbhangra, P.S. South Bidhannagar, Kol-105



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