

BEFORE THE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

Original Application No.12/2024/EZ

In Re: 14 Cottah Mahisbathan Pond
Turns into field, BMC Steps in Kolkata,
West Bengal.

Versus

Principal Secretary, Department of
Environment, Govt. of West Bengal & Ors.

.....Respondent(s)

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1.	Affidavit in compliance of the order dated 17.10.2023.	
2.	Annexure- R/1	

Filed by:

Sudip Kumar Dutta
Sudip Kumar Dutta
Advocate for the
State of W.B.



19 JUL 2024



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO. 12/2024/EZ

In Re: 14 Cottah Mahisbathan Pond Turns into field, BMC Steps in Kolkata, West Bengal.

Versus

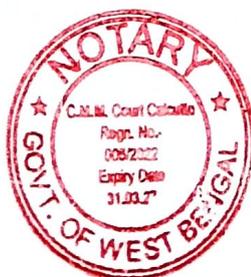
Principal Secretary, Department of Environment, Govt. of West Bengal & Ors.

.....Respondent(s)

Counter Affidavit on behalf of Respondent No. 5 to the instant Original Application

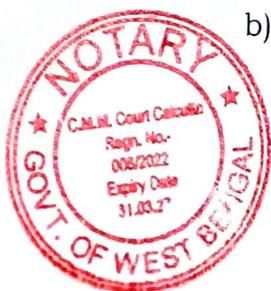
I, Sharad Kumar Dwivedi, son of Sri Hriday Narayan Dwivedi, aged about 43 years, by faith Hindu, by occupation- service, having office at Barasat, North 24 Parganas, PIN - 700124, do hereby solemnly affirm and state as follows: -

1. That I am working as District Magistrate and District Collector, North 24 Parganas, having my office at Barasat, North 24 Parganas and being impleaded as Respondent No. 5 to the instant Original Application, I have been directed by the Hon'ble Eastern Zone Bench of the Hon'ble National Green Tribunal on 11.01.2024 to file the present counter affidavit. Thereafter on 03.04.2024 and 13.05.2024 the Hon'ble Bench was pleased to grant further 4 weeks and 2 weeks' time respectively for filing the mentioned counter affidavit.





2. That, I have been advised to deal with only those points which are **material** for the present purpose and which are related to my jurisdiction and the issues which are not dealt with directly, shall not be construed in any way as my admission or submission relating to such issue.
3. That the instant Original Application has been taken up suo motu in view of a news article published in National Daily 'The Times of India' on 05.01.2024, titled "14-cottah Mahisbathan pond turns into field, BMC steps in, Kolkata, West Bengal".
4. That the moot contention, which was raised in the said news article concerned about an allegation of a pond, spanning 12-14 cottah area at Mahisbathan behind Sector V, Salt Lake has been filled up, apparently to carry out constructions thereon and a subsequent claim of a promise on behalf of the Bidhannagar Municipal Corporation to restore the Water body to its original state.
5. That the B.L. & L.R.O., Rajarhat vide his office memo no. 127/BL&LRO/RHT/2024 Dated 02.02.2024, has forwarded an enquiry report, which entails that:
 - a) That the **R.S./L.R. Plot no. 166**, under **Mouza – Mahisbathan** of the said Block, though recorded as **pukur**, but physically there exists no water body presently.
 - b) That out of the total 26 decimal of the said plot, a tin shed garage and a club named 'Dr. Bidhan Roy Smriti Sangha' approximately



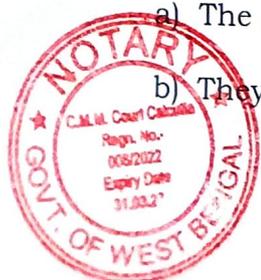


measuring an area of 3 decimals was seen to have existed during enquiry.

- c) That, throughout the rest 23 decimal of the said plot, concrete building materials were seen to have scattered around.
 - d) That the concerned plot is being used as '**Vacant danga land**' presently.
 - e) That few images of the physical condition of the concerned, as was found during enquiry, has been attached with the enquiry report.
6. That the B.L. & L.R.O., Rajarhat, in his report has informed that a notice **U/s 4C (5) of the W.B.L.R. Act, 1955** has already been issued from his end to the recorded owners of the concerned plot vide his office memo no. 22/BLLRO/RHT/2023 Dated 09.01.2024.
7. The B.L. & L.R.O., Rajarhat has also attached with his report a letter dated 29.01.2024 supposedly submitted before him by some **Aloke Mondal, Ashish Mondal, Samar Mondal and Shyamal Mondal** respectively. On verification of the concerned plot information, they appear to be the recorded raiyats of the concerned plot bearing **L.R. Khatian no. 635, 636, 634 and 633** respectively. They, in their letter, **claimed** that:

a) The physical character of the land is '**Solid low land**'.

b) They have donated some part of the land to the mentioned club.





c) The, rest of the vacant land are used to organize festivals and other occasions and for such purpose building raw materials are generally laid on the vacant land frequently, almost throughout the year.

The report of the B.L.&L.R.O., Rajarhat received along with annexures are annexed herewith and marked as '**Annexure - R/1**'.

8. That, from the above assertions on behalf of the recorded raiyats, it is clear that they claim the present character of the land as **vacant land** and not a water-body.
9. That, however, as it is very much clear from the concerned R-O-R that the recorded classification of the concerned plot is 'Pukur' i.e., a water body and any recorded classification of a land to be called validly/legally changed requires permission of Collector U/s **4C of the W.B.L.R. Act, 1955**, which also applies in the present case.
10. That as per available records no application for permission for conversion or alteration of the use of the concerned plot of land appears to have submitted by the said recorded raiyats.
11. That, now, from another angle, as the recorded raiyats have claimed the present physical classification or use of the concerned plot as vacant land, a question inevitably arises as to when the use or physical classification of the concerned plot had ceased to be a water-body and started to be used as vacant land.

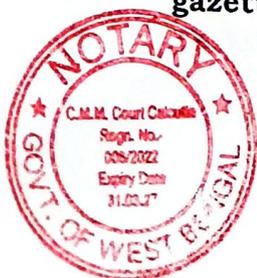




12. That, at this juncture the postulations of the Rule 166 of W.B.L.R. Manual need to be visited and **W.B.L.R. Manual, 1991** postulates in such cases where conversion has been made before making application for permission that:

a) **Rule 166 (iii)** of the said Manual apprehends that there may be many cases of unauthorised change in land-use where no application for permission to make such change has even been made. In such cases it is envisaged that Revenue Inspectors shall make enquiries regarding such unauthorised conversion during their tour in their areas. If any such case comes to notice, penal action as contemplated in subsection (4) of section 4 or section 4D should be taken, **unless the Collector grants post facto permission as mentioned in sub-rule (i) above.**

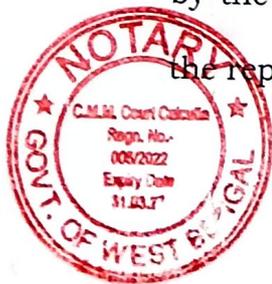
b) Now, **Rule 166 (i)** postulates that while disposing of a **petition for conversion**, it may come to the notice of the **Collector** that the land has been **already converted to some use other than that appearing from the record-of-rights**. Such a case should normally be dealt with under section 4(4). In such cases, it should be enquired as to whether the change in use has been made in the usual course of nature or by deliberate action on the part of the applicant or any other person; and, in the latter case, it should also be ascertained whether the change took place **before 24.3.86 i.e. the date of publication in the official gazette of the West Bengal Land Reforms (Amendment) Act, 1981.**





c) Now, **Rule 166 (i) of the W.B.L.R. Manual, 1991**, further clarifies regarding the matter that if the change in the use of land has occurred **(a) in the usual course of nature, or (b) has occurred at a time when such change was not unlawful, (vide proviso to section 4B), or (c) has occurred due to developmental activities of the Government or of a local body in the surrounding area, or (d) due to urbanisation in the surrounding area**, the applicant should be informed that the change is being noted in the record-of-rights, and the said record should be corrected accordingly in due course. If there was a **reasonable cause** made behind the **change** that **occurred**, the **Collector may consider** on the **merit** of the case **if post- facto permission** should be granted. [In this connection the expression “without any reasonable cause” in section 4(4)(a) may be referred to.] **On the other hand**, if it is **proved** that the **change** was **deliberately made** without reasonable cause **after 24.3.86**, the land may be vested under section 4(4) or penal action may be taken under **section 4D** unless prosecution under section 4D is barred by limitation under the Code of Criminal Procedure.

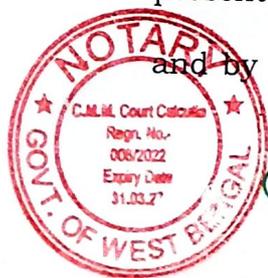
13. That, though, the said recorded raiyats of the concerned plot of land have claimed the present character of the land as **vacant land** and not a water-body, however, up till now no such evidence has been submitted by the said recorded raiyats nor any such evidence has surfaced from the report of the B.L. & L.R.O., Rajarhat, indicating that the alteration of





land use had occurred prior to **24.03.1986** and the subject land is at all comes under the purview of the Rule 166 of the W.B.L.R. Manual, 1991.

14. That The West Bengal Inland Fisheries Act, 1984 has been provided for the conservation, development, propagation, protection, exploitation and disposal of inland fish and fisheries in West Bengal and for matters connected therewith or incidental thereto.
15. That in exercise of the power conferred under the clause (ii) of section 2 of The West Bengal Inland Fisheries Act, 1984, the Hon'ble Governor has been pleased to authorise the following authorities, vide notification no. 1748-Fish/C-I/9R-03/2017 Dated, Kolkata, the 20th July, 2017 of the Department of Fisheries, Aquaculture, Aquatic Resources and Fishing Harbour to be competent authority under the said Act.
- i. Municipal Commissioner/Commissioner/Executive Officer of Municipal Corporation/Municipalities/Notified area authority within their respective jurisdiction.
 - ii. District Magistrate within their respective revenue districts **except the municipal areas mentioned above.**
16. That from the solemn order dated 13.05.2024 of the Hon'ble Bench in the present matter it has come to the notice of the deponent that Bidhannagar Municipal Corporation being respondent no.4 to the present Original Application has filed their affidavit dated 10.05.2024 and by such affidavit B.M.C. has confirmed that there has been illegal



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filling-up of pond at Mahisbathan Mouza and that there was **garbage** scattered all over the place.

17. That in view of the humble submissions made hereabove and keeping in mind the relevant provisions of the W.B.L.R. Act, 1955 and the West Bengal Inland Fisheries Act, 1984 as well as the settled fact that the disputed site/plot of land falls within the Ward 28 of B.M.C., it is obsequiously iterated herein that, while in the present case updation and maintenance of R-O-R falls within the jurisdiction of the land revenue authorities (which has been kept intact in its original recorded classification as 'pukur') the conservation, development, propagation, protection, exploitation and disposal of inland fish and fisheries (water-body capable of being pisciculture) falls within the jurisdiction of B.M.C. (Bidhannagar Municipal Corporation) authorities.
18. That, in any case/situation wherein the B.M.C. (Bidhannagar Municipal Corporation) decides to proceed for restoration of the original physical use of the disputed land in its jurisdiction under the West Bengal Inland Fisheries Act, 1984, the North 24 Parganas District authority shall extend all possible assistance in the matter.
19. That the deponent shall ever be duty bound to obey any order (s) in the matter as may deem fit and be passed by the Hon'ble Tribunal.





20. The statements made in paragraphs 1 to 19 are true to my knowledge based on information derived from records and the rest are my respectful submissions before this Hon'ble Tribunal.

Sharad Kumar Dwivedi

Prepared in my office

Deponent is known to me
District Magistrate
North 24-Parganas, Barasat

Identified by me

[Signature]
Advocate

Verification

I, Sharad Kumar Dwivedi, son of Sri Hriday Narayan Dwivedi, District Magistrate and District Collector, North 24 Parganas, having my office at Barasat, North 24 Parganas do hereby solemnly affirm and verify that the contents of the statements made in the above paragraphs of the affidavit are true and correct to the best of my knowledge and belief. No part of the same is false and nothing material has been concealed therefrom.

Verified at Kolkata, on this the _____ day of June, 2024.

Sharad Kumar Dwivedi

Deponent
District Magistrate
North 24-Parganas, Barasat

Identified by me

[Signature]
Advocate

SOLEMNLY AFFIRMED

& Declared Before me on Identification Adv.

[Signature]
NOTARY

**N. DAS GUPTA
C.M.M. Court
Govt. W.B.**

N. DASGUPTA

Notary

Regn. No. 006/2022

3, Bankshal Street

Calcutta-700001



19 JUL 2024



Government of West Bengal
Office of the Block Land & Land Reforms Officer
Rajarhat, North – 24 Parganas

Memo No:- 127/BL&LRO/RHT/2024

Dated:- 02.02.2024

To
The A.D.M.& D.L.& L.R.O.
North 24 Parganas.

**Sub: - Report regarding illegal pond filling of LR Plot No- 166 of Mouza-
Mahisbathan, J.L- 18**

Sir,

I am enclosing herewith the spot verification report of R.I for your kind perusal. This is to state that a notice u/s 4C(5) of WBLR Act, 1955 was already sent to the recorded owners on the basis of the news reporting previously vide this office memo number 22/BLLRO/RHT/2023 dt. 09/01/2024.

Accordingly the recorded owners submitted a deposition that the restoration work is going on. Necessary photograph is also enclosed herewith for your kind perusal.

Enco :-

- 1) R.I report
- 2) Current Images of the plot




B.L & L.R.O, Rajarhat
North-24 Pargana
B.L.&L.R.O., Rajarhat
North 24-Parganas



526
29.01.24



Date : 29.01.2024

From:

Mr. Alope Mondal,

Mr. Ashish Mondal,

Mr. Samar Mondal,

Mr. Shyamal Mondal,

Mahisbathan, Ward no. 28,

Pin- 700 102.

To

The B.L. & L.R.O,

Rajarhat.

Sir,

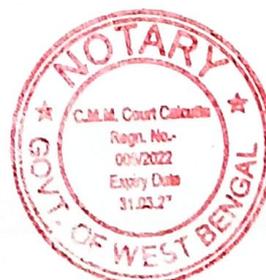
we, namely Alope Mondal, Ashish Mondal, Samar Mondal, Shyamal Mondal, our aged between 65 and above, are the residents of ward no -28, Mahisbathan. Want to inform you that the land comprised in R.S/L.R. Dag No. 166, L.R. Khatian Nos. 633, 634, 635 & 636, lying and situated at Mouza -Mahisbathan, Ward No. 28 under Bidhannagar Municipal Corporation, Pin - 700 102, is the Solid low land by physical characterization and we also donated some part of the land to "Club", and rest of the vacant land used to organise any type of festival & occasion purpose held in every year. Though the said land is vacant that's why some building raw materials always lying on the said land .

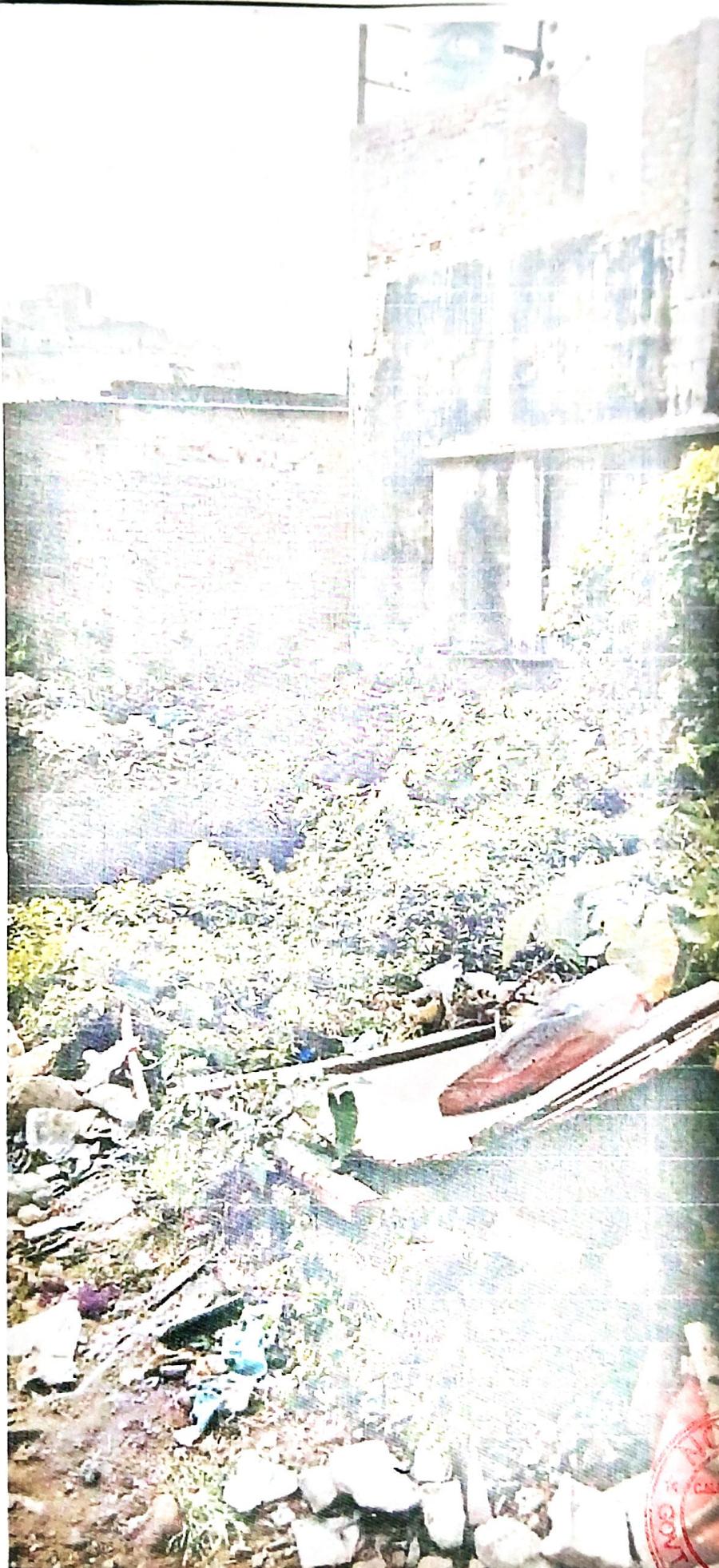
we had informed to you before about removing the raw materials and soil from that said land on 19.01.2024 with the reciving number 383. Now we had removed that material and soil from the said land.

Thanking you,

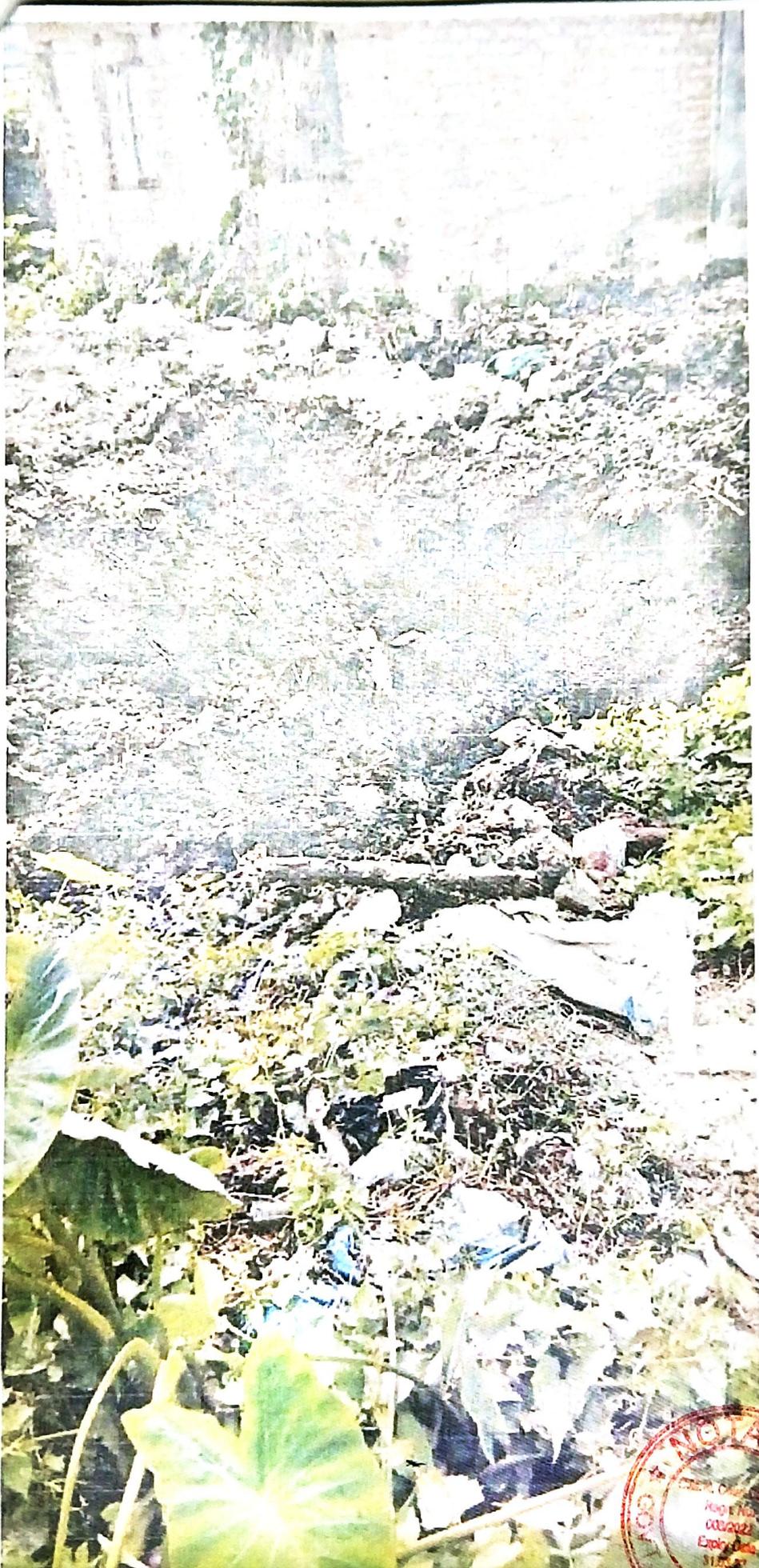
Yours faithfully,

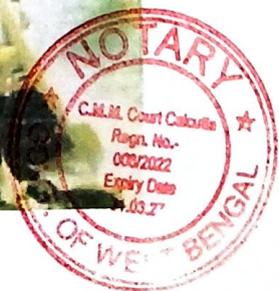
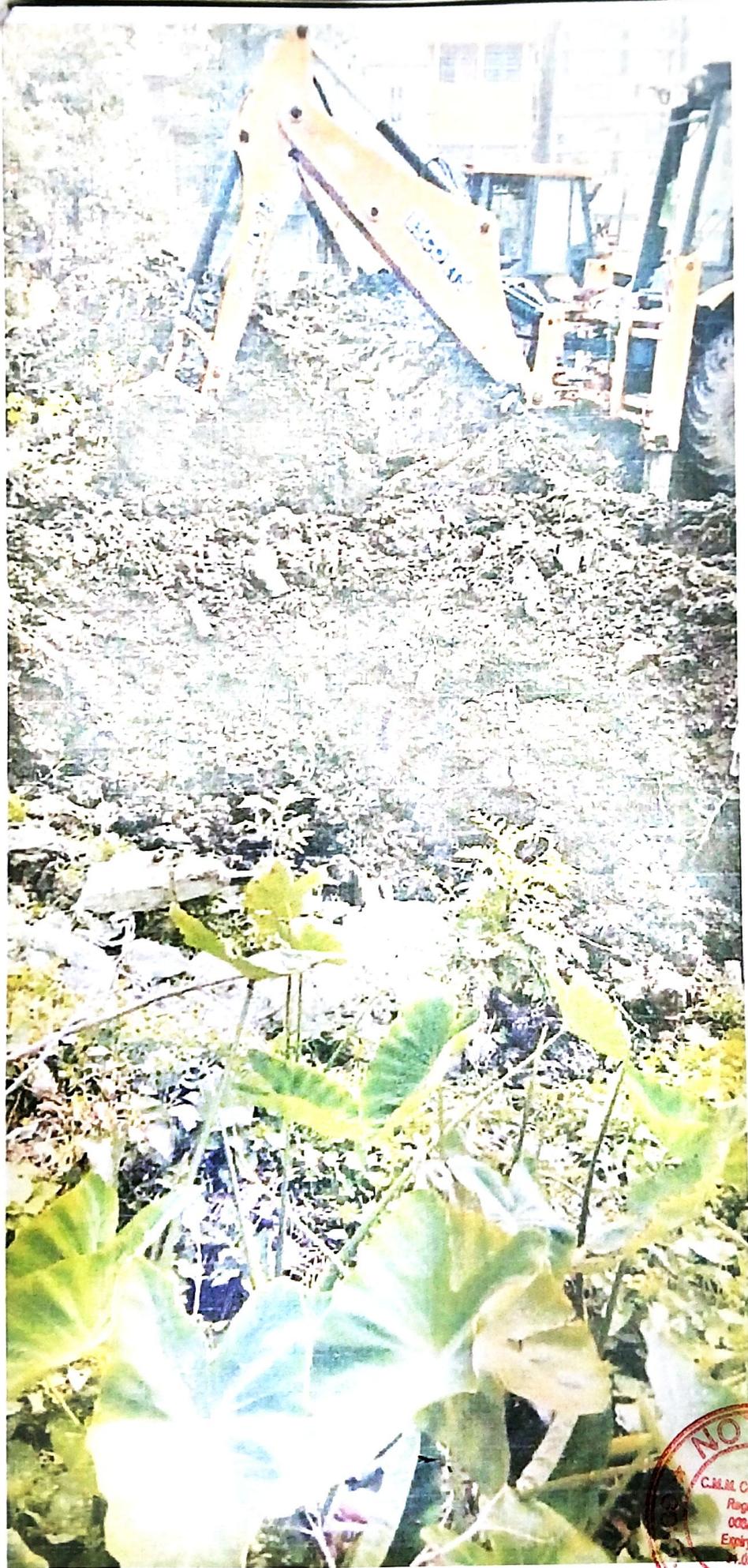
1. Alope kumar Mondal
2. Ashish Kumar Mondal
3. Samar Kumar Mondal
4. Shyamal Kumar Mondal



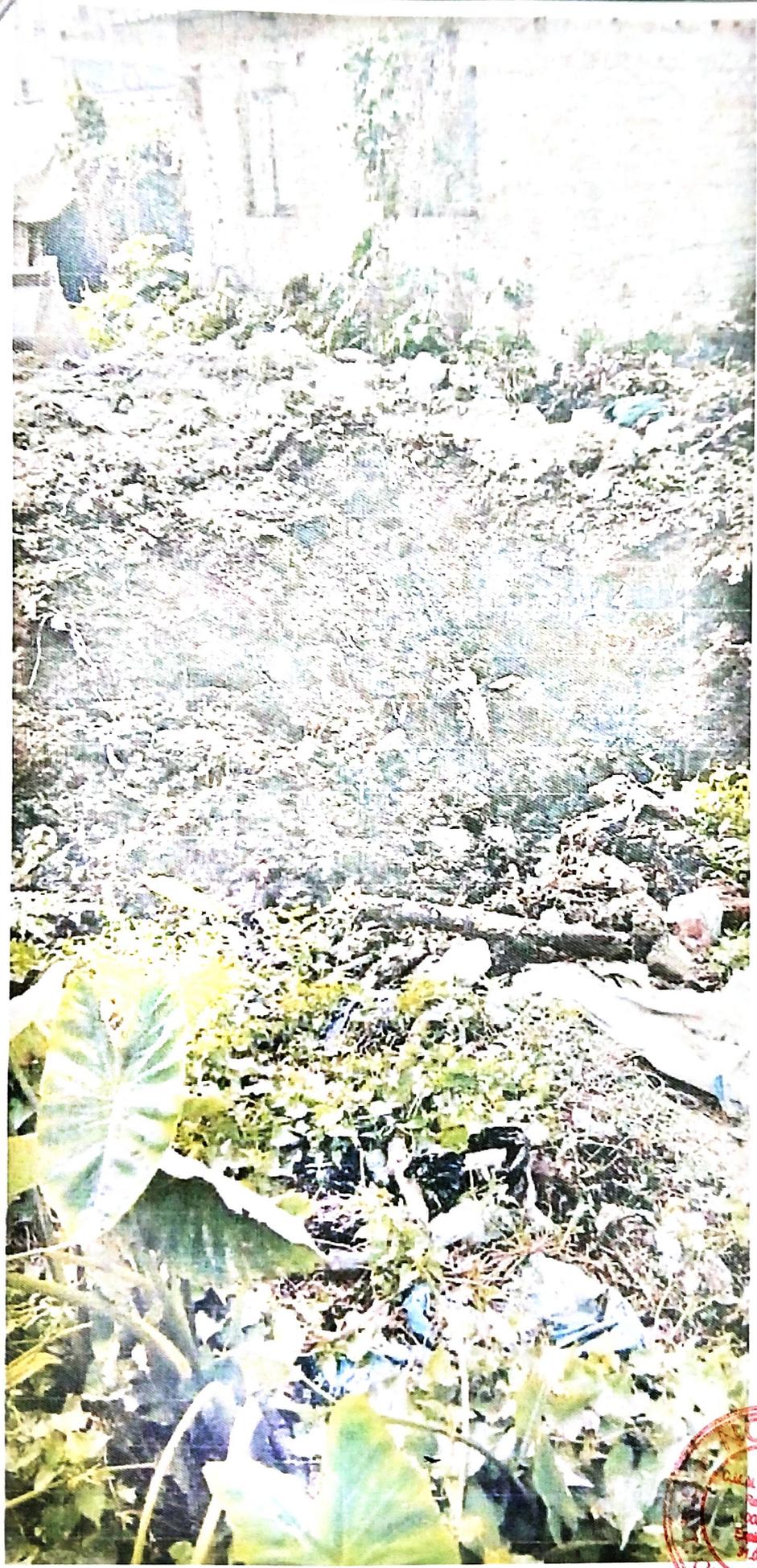


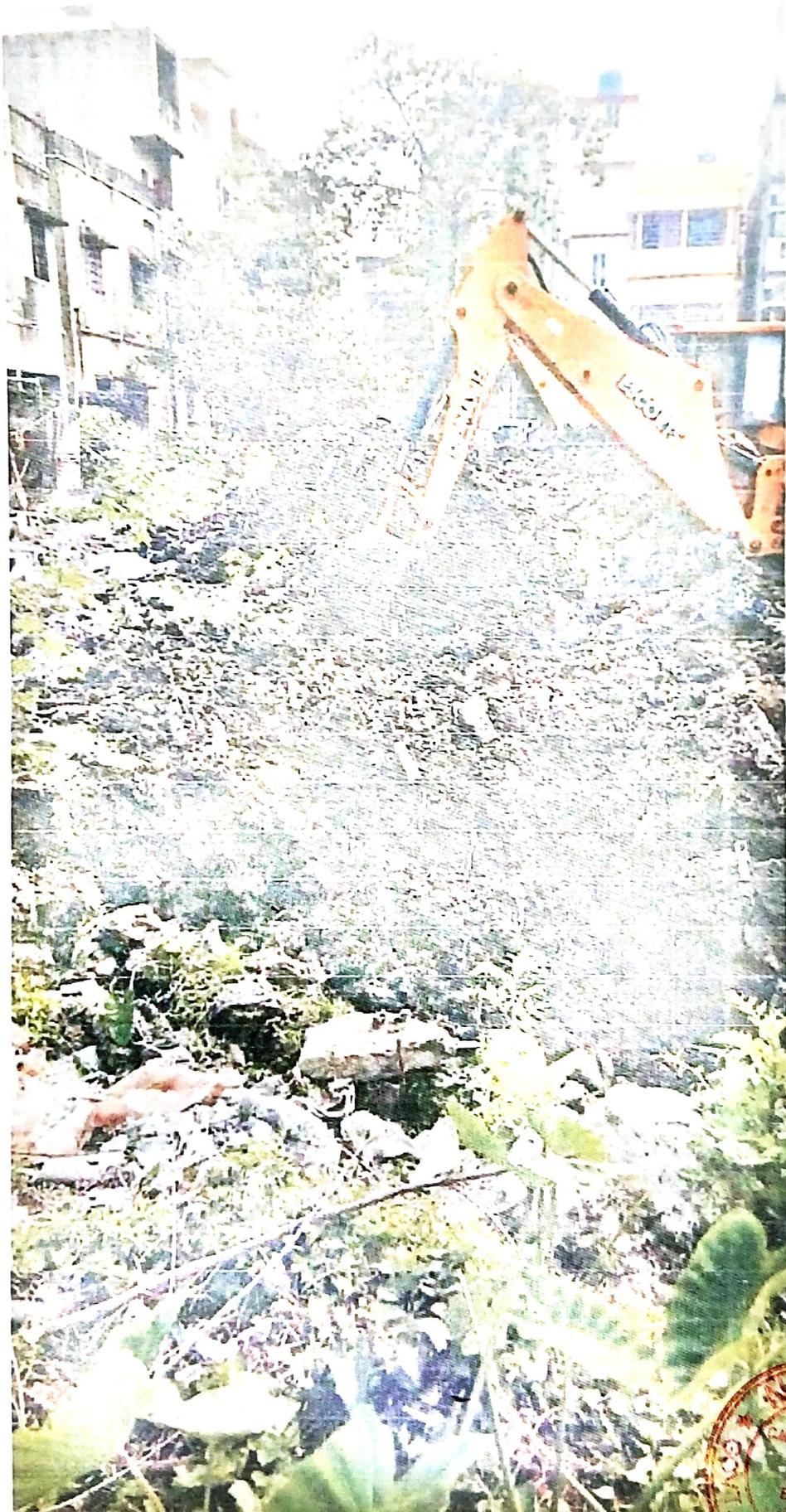


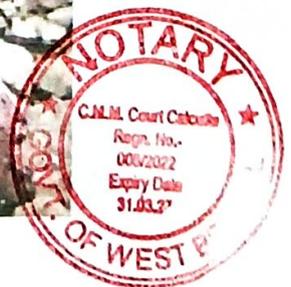
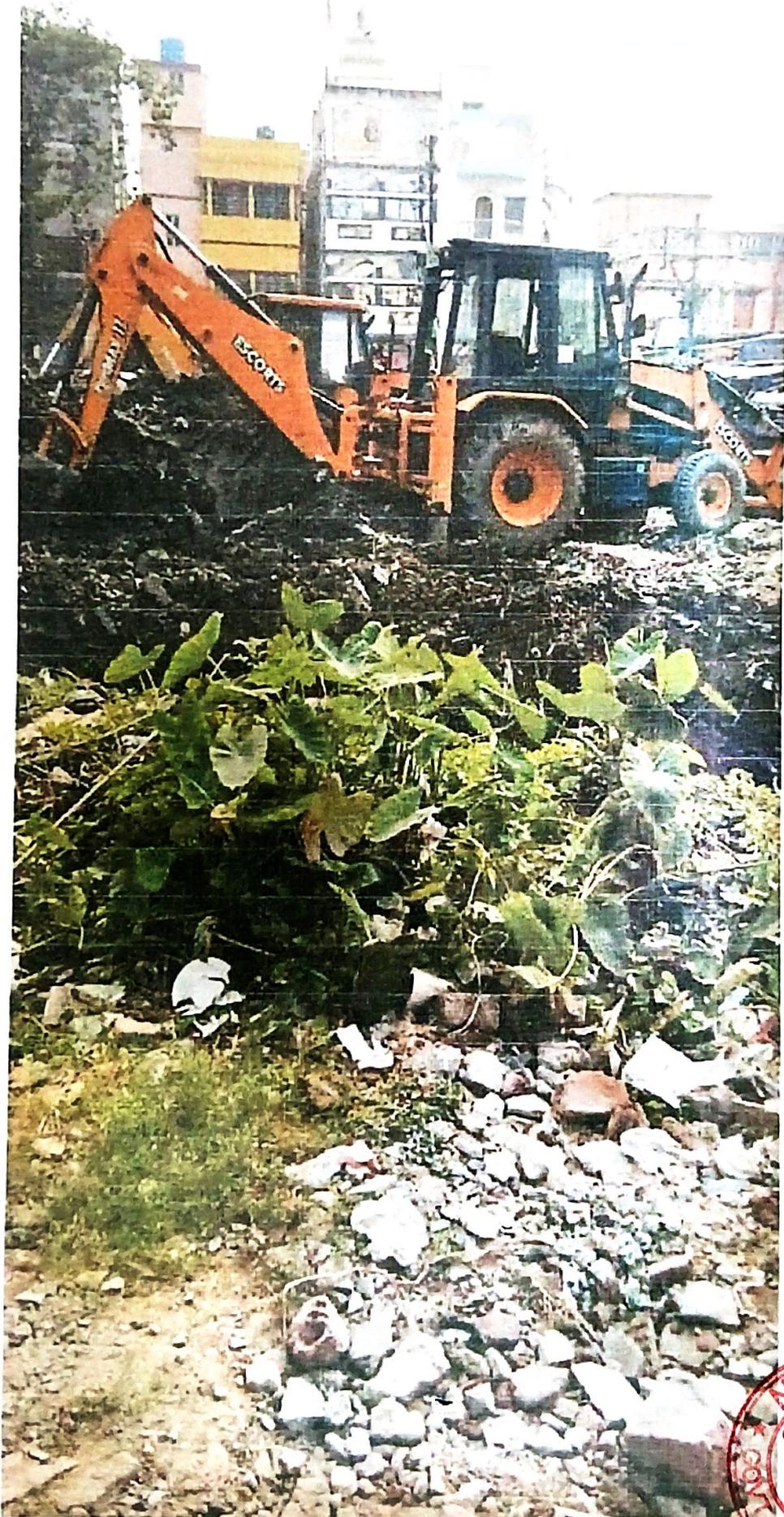
















To
The B.L & L.R.O
Rajarhat
North 24 Parganas.

Sub: - Enquiry report regarding illegal pond filling in Plot No. 166 of Mouza-
Mahisbathan, J.L No.18 .

Sir,

As per your official order a field level inspection has been caused (with the assistance of our official Amin) in connection with the above stated subject matter. During the inspection an official from A.D.M. & D.L & L.R.O. , Barasat was also present.

During the inspection it is found that though the suit plot 166 is recorded as pukur but physically there is no Pukur. Out of the total 26 dec. area of the plot, a tin shed garage and a club named Dr. Bidhan Roy Smriti Sangha with a measuring area of 3 dec. (approximately) is found over the suit plot of the land. Over the rest 23 dec. area of the plot building garbage is seen scattered. Presently it is being used as vacant danga land.

The enquiry report including few images of the said plot is attached for favour of your kind information.

Encl :-

- 1) Copy of L.R information.
- 2) Sketch map of the plot.
- 3) Current images of the plot.



Signature 25/01/24
REVENUE INSPECTOR
Rajarhat BL & LRO
North 24 Parganas

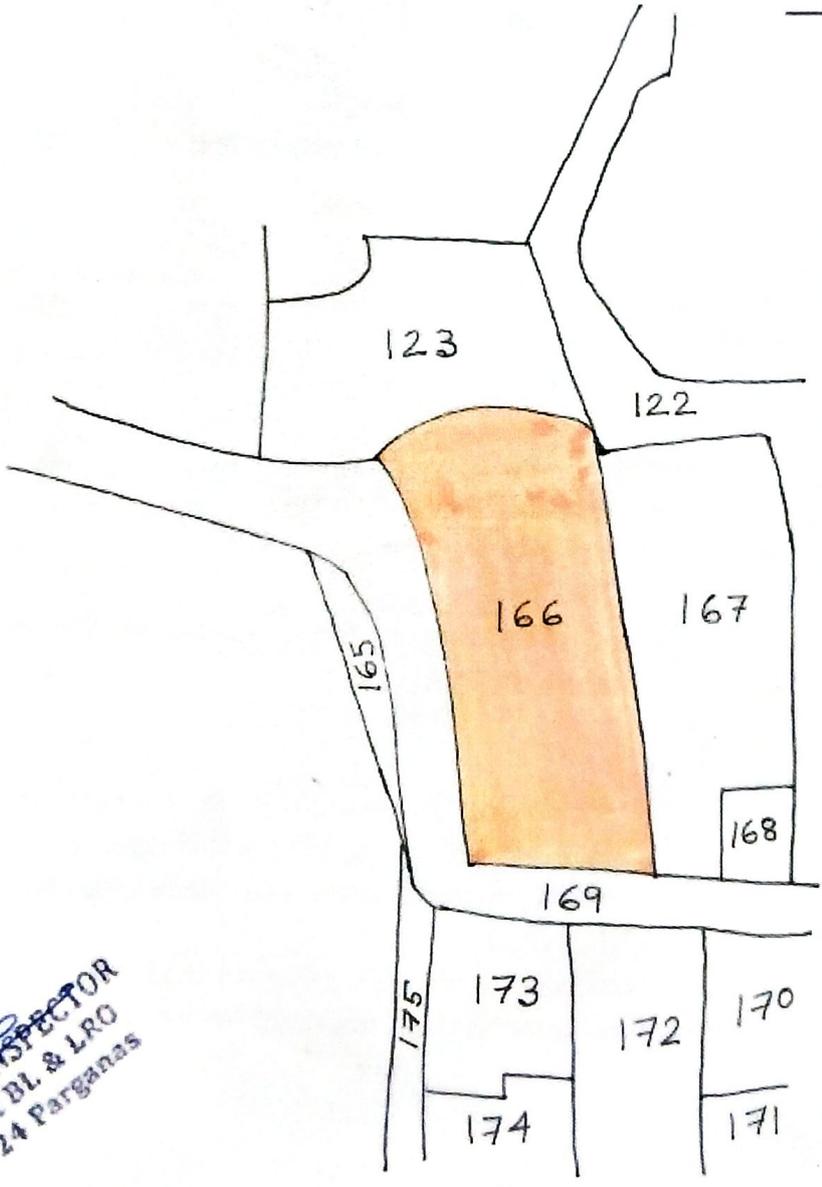
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SITE PLAN OF MOUZA: MAHISBATHAN, J.L NO: 18, R/S
 PLOT NO: 166, P.S: RAJARHAT, UNDER RAJARHAT
 BLOCK, NORTH 24 PARGANAS.

SHOWING EFFECT DAG NO: 166 IN ORANGE COLOUR



NOT TO SCALE



[Signature]
 REVENUE INSPECTOR
 Rajarhat Bl. & LRO
 North 24 Parganas



[Signature]
 AMIN
 B.L.&L.R.O. RAJARHAT
 NORTH 24 PARGANAS

পশ্চিমবঙ্গ সরকার
সমষ্টি ভূমি ও ভূমি সংস্কার আধিকারিকের করণ
-দাগের তথ্য-



জেলা- উত্তর ২৪ পরগণা
মৌজা- মহিষবাথান
দাগ নং- ১৬৬
সাবেক দাগ নং- ১৬৬

ব্লক- রাজারহাট
জে.এল.নং- ১৮
শ্রেণী- পুকুর

থানা- রাজারহাট
জমির পরিমাণ(এ)- ০.২৬

[১৫০৭০১৮]

খতিয়ান নং	শ্রেণী	অংশ	অংশ পরিমাণ(এ)	স্বামীর/লেসীর বিবরণ	মন্তব্য
৬৩৩	পুকুর	০.২৫০০	০.০৬	শ্যামল কুমার মণ্ডল পিতা-ভীমচন্দ্র মণ্ডল মাং-নিজ	
৬৩৪	পুকুর	০.২৫০০	০.০৭	সমর কুমার মণ্ডল পিতা-ভীমচন্দ্র মণ্ডল মাং-নিজ	
৬৩৫	পুকুর	০.২৫০০	০.০৭	আলোক কুমার মণ্ডল পিতা-কৃষ্ণদ মণ্ডল মাং-নিজ	
৬৩৬	পুকুর	০.২৫০০	০.০৬	আশীষ কুমার মণ্ডল পিতা-কৃষ্ণদ মণ্ডল মাং-নিজ	
		১.০০০০	০.২৬		

Authenticated by

REVENUE OFFICER
OFFICE TO THE DL & LRO
NORTH 24PARGANAS, BARASAT





Govt Of West Bengal
Office of the Block Land & Land Reforms Officer
----Plot Information----

District- North 24 Parganas	Block- Rajarhat	[1507018]
Mouza- Mahisbathan	J.L.No-18	P.S.- Rajarhat
Plot no.-166	Classification- Pukur	Area-0.26 acre
Sabek Plot No(RS).-166		

Khatiyon No	Classification	Share of land	Area (Acre)	Details of Recorded tenant /lessee	Remarks
633	PUKUR	0.2500	0.06	Shyamal Kumar Mondal S/O- Bhimchandra Mondal Saang-Nijo	
634	PUKUR	0.2500	0.07	Samar Kumar Mondal S/O-Bhichandra Mondal Saang-Nijo	
635	PUKUR	0.2500	0.07	Alok Kumar Mondal S/O -Krishnapada Mondal Saang- Nijo	
636	PUKUR	0.2500	0.06	Ashish Kumar Mondal S/O- Krishnapada Mondal Saang- Nijo	
		<u>1.0000</u>	<u>0.26</u>		

For office use only

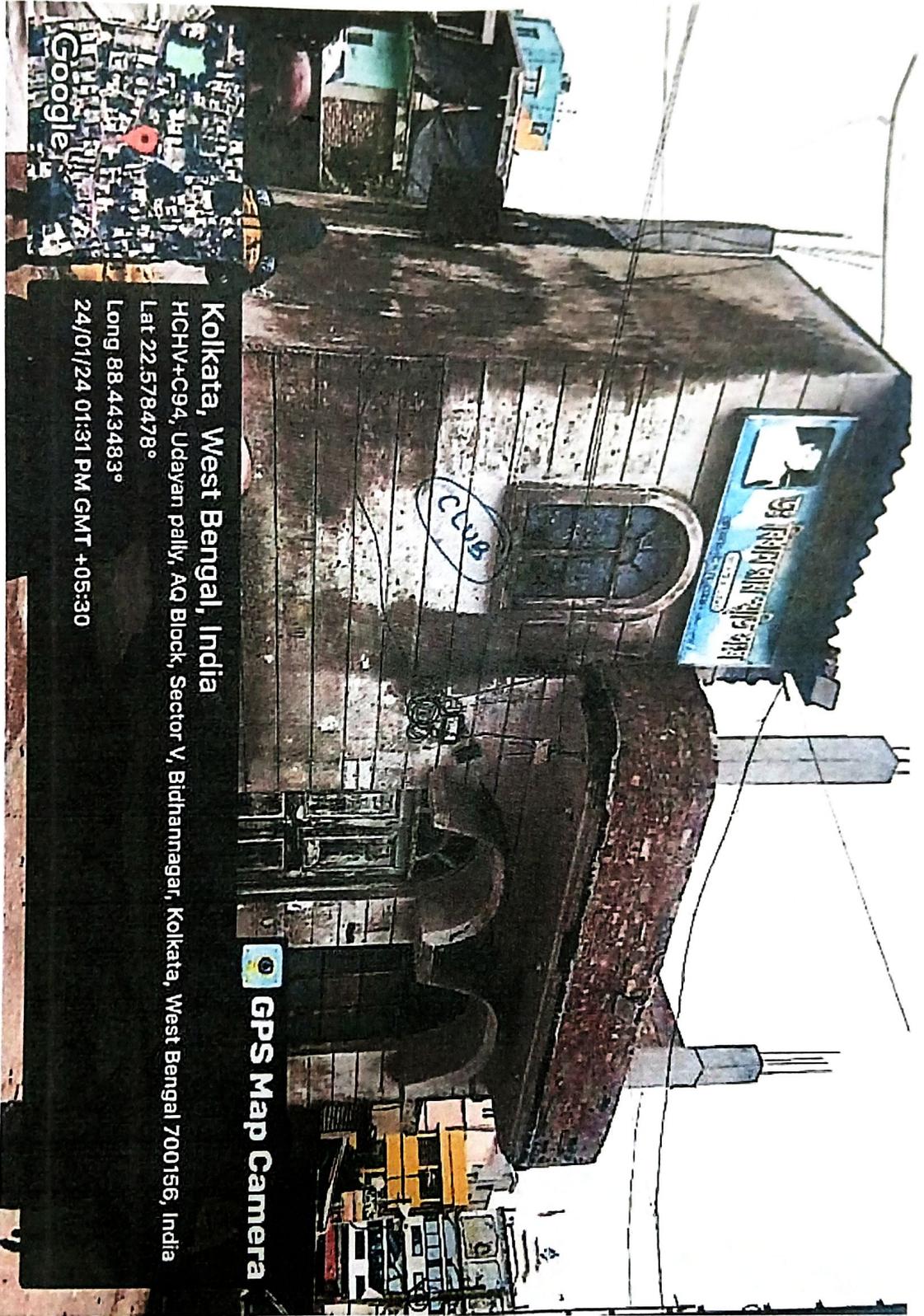
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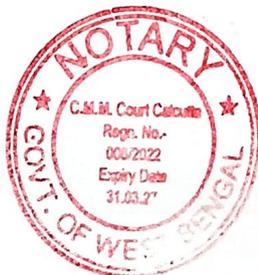

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OFFICE TO THE DL & LRO
NORTH 24PARGANAS, BARASAT





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Sundip
 25.01.24
REVENUE INSPECTOR
 Rajarhat BL & LRO
 North 24 Parganas



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GPS Map Camera

Kolkata, West Bengal, India
 HCHV+CG4, Udayan pally, AQ Block, Sector V, Bidhannagar, Kolkata, West Bengal 700156, India
 Lat 22.578541°
 Long 88.443504°
 24/01/24 01:31 PM GMT +05:30

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