

BEFORE THE NOTARY PUBLIC  
ALIPORE JUDGES' COURT  
KOLKATA-700 027

BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONAL BENCH, KOLKATA, WEST BENGAL  
FINANCE CENTRE, 3RD FLOOR, NEW TOWN

**IA No. 44/2024/EZ**

ORIGINAL APPLICATION No. 16 / 2024 / EZ

In The Matter Of :

MD. HUMAYUN ABBAS.

.....Applicant.

-versus-

STATE OF WEST BENGAL & ORS.

....Respondents.

**Advocate on Record for Applicant:**

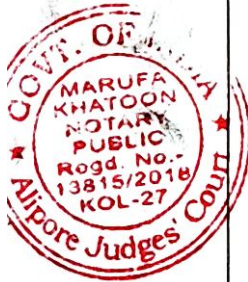
Mr. Zafar Mobin, Advocate,

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BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONAL BENCH, KOLKATA, WEST BENGAL  
Finance Centre, 3<sup>rd</sup> Floor, New Town

**I.A. No. 44/2024/EZ**

ORIGINAL APPLICATION No. 16 / 2024 / EZ

IN THE MATTER OF:

Application for injunction under section  
19(4)(i) of the National Green Tribunal Act,  
2010:

- AND -

**IN THE MATTER OF**

**MD. HUMAYUN ABBAS**

son of late Md. Abbas

of 7, Tiljala Place

Kolkata-700017 and also

of 51K, Shamsul Huda Road,

Police Station Karaya,

Kolkata-700017-700046,

e-mail: [saifelectric000@gmail.com](mailto:saifelectric000@gmail.com)

.....Applicant

-Versus-

(1) WEST BENGAL POLLUTION CONTROL

BOARD,

Paribesh Bhawan, 10A, Block-LA, Scetor-III,

Bidhannagar, Salt Lake City, Kolkata-700098

Email: [net.wbpcb-wb@bangla.gov.in](mailto:net.wbpcb-wb@bangla.gov.in)



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(2) THE CENTRAL POLLUTION CONTROL BOARD, Regional Directorate Kolkata, Service through its Regional Director, 'South end Conclave' Block – 502, 5<sup>th</sup> and 6<sup>th</sup> Floor, 1582, Razidanga Main Road, Kolkata-700107.  
Email: mkbiswas.cpcb@nic.in

(3) The Commissioner Presidency Division, Kolkata (Respondent No. 3 has been deleted vide order dated 25.04.2024)

(4) REHAN JAVED  
S/o Javed Akhter  
44D, Shamsul Huda Road, Police Station  
Karaya, Kolkata-700017

(5) IRFAN JAVED  
S/o Javed Akhter  
44D, Shamsul Huda Road, Police Station  
Karaya, Kolkata-700017

(6) JAVED AKHTER  
S/o Late H. M. Ishaque  
of 44D, Shamsul Huda Road, Police Station  
Karaya, Kolkata-700017.

(7) KOLKATA MUNICIPAL CORPORATION  
Service through The Municipal  
Commissioner,



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Having office at 5, S. N. Banerjee Road,  
Kolkata - 700013,  
e-mail: [mc@kmcgov.in](mailto:mc@kmcgov.in)

..... Respondents

**Affidavit-in-Reply by the Applicant against the Affidavit-in-Opposition of  
the Private Respondent Nos. 4 to 6 in I.A. No. 44/2024/EZ.**

To,

The Hon'ble Chairman National Green Tribunal and His Companion  
Members of the Hon'ble Tribunal

The humble petition of reply on behalf  
of the applicant above named,

I, MD. HUMAYUN ABBAS son of Late Md. Abbas aged about 46 years, by religion  
Muslim, by occupation business, residing at 51K, Shamsul Huda Road, Police  
Station Karaya, Kolkata-700017, District South 24-Parganas do hereby solemnly  
affirm and state as follows :-

1. That, the statements made and contained in paragraph Nos. 1, 2, 3, 4, 5  
and 6 of the alleged affidavit in opposition filed by the private respondents  
No. 4, 5 and 6 are all formalities of the Affidavit-in-Opposition which do  
not create any impact and/or become any subject for adjudication by the  
Hon'ble Tribunal.
2. That, in the context of the alleged statement made and contained  
paragraph No. 7 of the alleged affidavit in opposition filed by the private  
respondents No. 4, 5 and 6, I do hereby state that the Private Respondents  
have made an effort to mislead the Hon'ble Tribunal by denying the fact of



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17 (Seventeen) Cottahs of tank which was existing in the original premises No. 7, Tiljala Place, P.S. – Karaya, Kolkata – 700017 along with part of premises No. 11, Dilkhusha Street, Kolkata – 700017 as mentioned, written and stated in the registered Deed of Patta under Being No. 208 of 1931 executed by the original predecessor owner Nirmal Chandra Bandyopadhyay/ Banerjee in favour of Md. Hashem being one of the grandfather of the Applicant wherein it has been stated that the landed property comprised of 1 Bigha 13 Cottahs 2 Chittacks 13 sq. ft. of land with structure therein and within the said total landed property premises there had been a pond/ tank / pukur/ waterbody of area 17 (Seventeen) Cottahs which has been more fully described in the Schedule to the said Deed of Patta under Being No. 208 for the year 1931 and also in the body of the concerned Deed of Patta. In the said Deed of Patta there is one map/ site plan showing tank of 17 (Seventeen) Cottahs and solid land 16 (Sixteen) Cottahs 2 (Two) Chittacks 7 (Seven) sq. ft. The Private Respondents do not have any space to say anything about the concerned tank of 17 Cottahs and to contradict the same, because, the said registered Deed of Patta under Being No. 208 for the year 1931 has become a public document, and the site plan attached in the Deed of Patta under Being No. 208 for the year 1931 has been certified to be a true copy of the original plan. It is tissues of falsehood of the Private Respondents because in the Original Application as well as in the Interlocutory Application (IA) it has been mentioned that the filling up of 17 (Seventeen) Cottahs of tank has been made by the Private Respondents in the original landed property of the erstwhile predecessors numbered as 7, Tiljala Place and part of premises No. 11, Dilkhusha Street, Kolkata – 700017 prevalent in the year 1931. It is also stated that the Private Respondents have allegedly skipped



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their activities from the starting point of facts and incidence from year 1931 A.D. to year 2011 A.D. setting aside all their illegal activities within in-between/ intermediate period year of 1931 to year 2011. It is a blatant lie to say that there were several occupiers and/or tenants because the word 'occupiers' and the word 'tenants' have separate legal meaning. It is fact that there were all relations of the two grandfathers of the Petitioner Md. Humayun Abbas, namely Md. Shaik Mohammad Hashem alias Md. Hashem and Md. Yeakub residing in the landed property premises at question, and the Private Respondents have very cunningly usurped the concerned landed property in a covetous method by misleading the Learned Courts of Law, and, filled up the 17 (Seventeen) Cottahs of tank in the landed property premises at question and at present making construction of high rise multi-storied building in the concerned landed property at question. It is submitted that the site plan annexed with the Deed of Pattah under Being No. 208 for the year 1931 is a part and parcel of the concerned Deed, and, the record of the aid Deed has been kept if the office of the Sib-Registrar an is a public record of that private documents i.e., certified copy of the Deed of Pattah under Being No. 208 for the year 1931, hence it falls within the category of 'Public Document' and a Public Document kept in the custody of State is a Government Record. It is stated that when in the site plan/map of registered Deed under Being No. 208 for the year 1931 there is a plot of land being specifically mentioned as solid land area 16 (Sixteen) Cottahs 2 (Two) Chittacks 7 (Seven) sq. ft. and also in contents of the registered Deed under Being No. 208 for the year 1931 it has been categorically mentioned that the concerned land property consist of tank area 17 (Seventeen) Cottahs and the rest landed property comprises of 16 (Sixteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft.



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solid land then there is no scope for the Private Respondents to contradict the tank area being 17 (Seventeen) Cottahs in the landed property premises at question. The Annexure 'A-22' is a part and parcel of the entire Annexure 'A' which is the Registered Deed of Pattah under Being No. 208 for the year 1931.

3. That, in the context of the alleged allegation stating that the Kolkata Municipal Corporation Assessment Record for the year 1946-1947 does not show the existence of 17 (Seventeen) Cottahs of tank, and, it only reveals that description of the landed property being corrugated Hut, Land and Tank in the premises No. 7, Tiljala Place, K.M.C. Ward No. 21 and the name Md. Hashem being the grandfather of Applicant/ Petitioner Md. Humayun Abbas, then it can be safely presumed that there had been tank in premises at 7, Tiljala Place, Kolkata - 700017. There is no column in the erstwhile Assessment Record page of Kolkata Municipal Corporation for mentioning the area of the landed property, and, as such the measurement of the landed property area comprising of 17 (Seventeen) Cottahs tank is not stated in the same but Kolkata Municipal Corporation after being satisfied with the original documents pertaining to the property wherein Md. Hashem was the occupier of the premises No. 7, Tiljala Place, Kolkata - 700017, K.M.C. Ward No. 21, Kolkata - 700017.

4. That, as the grandfather of the Applicant/ Petitioner Md. Hashem (since deceased) had been living with his brother Md. Yeakub being another grandfather of the Applicant in premises at 7, Tiljala Place, Kolkata - 700017 since year 1931 A.D. as occupiers in the said premises therefore the Kolkata Municipal Corporation issued Tax Bills in the names of Md. Hashem and Md. Yeakub which is a cogent proof that Md. Hashem and



Md. Yeakub along with their family members had been residing in the property premises at 7, Tiljala Place, Kolkata - 700017, and as such, the Kolkata Municipal Corporation made mutation in favour of Md. Hashem and Md. Yeakub and issued tax bills/ Consolidated Rate Bill i.e., property Tax in their names. For the purpose of construction of structure in the property premises at 7, Tiljala Place, Kolkata - 700017 the grandfather of the Applicant/ Petitioner Md. Hashem was provided letter of intimation by the Corporation of Calcutta under Memo Serial No. 4059 and Serial No. 57 of date 07.08.1934 addressed to Sk. Mohammad Hashem of 7, Dilkhusha Street stating that "the Corporation hereby grants permission to execute the work as per plan, sanction and specification submitted with your application dated 10.07.1934 at premises No. 7, Tiljala Place under Rule 24 of Schedule XVII of Calcutta Municipal Act, 1923". In the sanction plan of C.I. Roof at premises No. 7, Tiljala Place, Kolkata - 700017 there is a big Tank beside corporation land along with landed property in the premises No. 7, Tiljala Place along with ground floor plan showing specification and at the back of the Calcutta Corporation Hut Sanction Plan there is endorsement, sign, seal and stamp of Corporation of Calcutta with signature of the appropriate authority i.e., District Building Surveyor - III. So this Hut Sanction Site Plan document bearing approval and endorsement of Corporation of Calcutta is a Public Document in the Government Record which shows a big tank in the property premises at 7, Tiljala Place, Calcutta, in the year 1931 and onwards.

Copy of the envelope of Corporation of Calcutta letter and copy of Corporation of Calcutta letter under Serial No. 4059 and Serial No. 57 of date 07.08.1934 addressed to Sk. Mohammad Hashem of 7, Dilkhusha Street stating grant for permission to execute the work as per plan, section



and specification, and copy of the Hut Sanction Plan of C.I. Roof in the premises at 7, Tiljala Place, Calcutta with sign, seal and signature of District Building Surveyor – III, Corporation of Calcutta for the year 1931 are all collectively annexed herewith and collectively marked as Annexure 'J'.

5. That, as such, the alleged contention of the Private Respondents in their affidavit in opposition as stated in paragraphs No. 7 to 9 are all illogical statements based upon conjecture and surmises and are also all tissues of falsehood which does not sustain in law. It is fact that there existed 17 (Seventeen) Cottahs tank in the property premises at 7, Tiljala Place, Calcutta and the said tank has been filled up and construction of multi-storied building is being carried out upon the tank filled land by the Private Respondents with the nexus of all concerned appropriate authorities.
6. That, the alleged contentions of the Private Respondents in their affidavit in opposition as stated in paragraphs No. 10 and 11, I do hereby state that the two grandfathers of the Applicant/ Petitioner namely Md. Hashem and Md. Yeakub respectively, made construction of Hut in the property premises at 7, Tiljala Place, Calcutta under Due Process of Law, as stated supra, and, resided therein with their family members, the structures are also apparent at present in the concerned landed property. It is astonishing enough as to understand why, and for what purpose the Executive Engineer (C), Environment and Heritage Department, Kolkata Municipal Corporation, invoked its power for creating 1.7 Cottahs artificial tank in the premises property at question with sufficient depth in accordance to provisions of West Bengal Fisheries Act, 1984, and in accordance to statutory circular of West Bengal Pollution Control Board,



as alleged by the Private Respondents. In the event there had been no tank or water body in the property premises at question, then what invoked the authorities of Kolkata Municipal Corporation to grant permission for creating waterbody fulfilling regulations of West Bengal Fisheries Act, 1984 and the West Bengal Pollution Control Board. The entire process is covetous for proving apparent transparency in the act of the Private Respondents of making construction of multi-storied building upon the 17 (Seventeen) Cottahs tank filled land in the property premises at question with the nexus of concerned authorities. In the event in the property premises at question there were no 17 (Seventeen) Cottahs of tank then what necessitated the concerned authorities to grant permission for creating 1.7 Cottahs of tank in the property premises at question, because, the same rule has not been made applicable in all other landed property premises where multi-storied building are being constructed. In the covetous process for construction of multi-storied building in the tank filled land a false application has been made by the Private Respondents for relocation of 1.7 Cottahs tank within the property premises at question so as to make and create record for incorporating false documentation of 1.7 Cottahs of tank in the records of Kolkata Municipal Corporation in respect of the said property premises at question. In the said covetous process the Private Respondents utilized the concerned authorities in order to conceal their illegal acts and prove transparency for the purpose of construction of multi-storied building upon the tank filled land. All concerned authorities in nexus with the Private Respondents as well as the Private Respondents are continuously harping upon the said falsely created manipulated record of Kolkata Municipal Corporation which is showing the creation of 1.7 Cottahs of tank without disclosing the old



records of the land showing existence of 17 (Seventeen) Cottahs of tank in the property premises at question.

7. That, the alleged contentions of the Private Respondents in their affidavit in opposition stating about the suit for partition and declaration being Title Suit 216 of 1979 filed by the Guha Thakurta families before the Learned Court of 2<sup>nd</sup> Sub-Judge, Alipore, wherein Learned Advocate Commissioner was appointed and the said Learned Advocate Commissioner submitted report along with sketch map, on the basis of which Final Decree dated 04.02.1985 passed by the Learned 2<sup>nd</sup> Sub-Judge, Alipore, and, on the strength of the said Final Decree, the Guha Thakurta families executed partition Deed for distributing shares amongst themselves and stating therein that there was no existence of water body in the Schedule of the Deed of Partition, and, also the Learned Advocate Commissioner in T.S. No. 216 of 1979 did not speak about existence of any water body in the property at question, and, the photocopy of the map of the said Advocate Commissioner that which has been annexed in the Affidavit-in-Opposition marked as Annexure 'B' are all created documents of the Guha Thakurta Families in collusion and connivance and nexus with the Private Respondents.

8. That, in accordance to the alleged contention of the Private Respondents as stated in paragraphs No. 10 and 11 in their affidavit-in-opposition stating that there never existed any waterbody in the property premises at question then what necessitated the Private Respondents to create a water body of 1.7 Cottahs and the same to be scrutinized and permission granted by the Authorities of Kolkata Municipal Corporation, and, the same to be written with great importance in the Affidavit-in-Opposition for creating a



sense of innocence of the Private Respondents in their illegal activities for making construction of multi-storied building upon 17 (Seventeen) Cottahs of tank filled land. This creation of 1.7 Cottahs of tank is a camouflage of the original 17 (Seventeen) Cottahs of tank which existed in the landed property at question.

9. That, in the context of the alleged contentions of the Private Respondents in their Affidavit-in-Opposition as stated in paragraphs No. 12, 13, 14 and 15, I do hereby state that the same are all concocted statements and averments of the Private Respondents in order to conceal the factum of illegal activities of filling up of 17 (Seventeen) Cottahs of tank in the concerned property premises at question and construction of multi-storied building in 17 (Seventeen) Cottahs of tank filled land. In the alleged contention the T.S. No. 54 of 2004 is a false statement. It is Title Suit No. 53 of 2004. In the plaint and Schedule of Title Suit No. 53 of 2004 it has been emphatically stated about the factum of Tank present in the 1 (One) Bigha, 13 (Thirteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft. of land. The Title Suit No. 53 of 2004 was filed by Begum Lutfunnessa while residing at Bangladesh through her Constituted Attorney Sri Manindra Kumar Ganguly, before the Learned Court of 9<sup>th</sup> Civil Judge, Senior Division, Alipore, against the aforementioned alleged Guha Thakurta families being a suit for Declaration and injunction for setting aside the partition Decree dated 08.04.1981 and 11.02.1983 passed in Title Suit No. 216 of 1979 by the Learned Court of 2<sup>nd</sup> Sub-Judge, Alipore. In the Title Suit No. 53 of 2004 the Private Respondents and another namely Shaheda Parveen wife of Javed Akhtar i.e., Private Respondent No. 6 purportedly and motivatedly added themselves as Added Parties/ Defendants with aforethought malice for achieving unlawful gain by filling up the 17



(Seventeen) Cottahs and making construction of multi-storied building thereon in the property premises at question. The total factum of illegal act of the Private Respondent and their collaborators are vividly stated in the instant IA/44/2024/EZ.

10. That, the Private Respondents have appeared before this Hon'ble Tribunal with unclean hands and in an speculative manner with a view to bypass all anomalies and illegal acts and activities of the Private Respondents in for the purpose of coveting their crime of filling up of 17 (Seventeen) Cottahs of tank and making construction of multi-storied building upon the tank filled land with the nexus of all concerned authorities and for the said unholy gain the Private Respondents have purportedly and motivated not stated about the factum in the instant affidavit-in-opposition. The fact that, the original landlord/ owner of the premises No. 7, Tiljala Place, Calcutta and part of 11, Dilkhusa Street, Calcutta also executed registered Sale Deed under Being No. 643 for the year 1945 and sold out the same landed property premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusa Street, comprising of total 1 (One) Bigha 13 (Thirteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft. land along with 17 (Seventeen) Cottahs of tank therein, to Begum Lutfunnessa, wife of Khan Sahib Moulavi Waheduzzaman of 16, Syed Amir Ali Avenue, P.S. - Ballygunge, District - 24 Parganas, Calcutta. In the body and Schedule of the Sale Deed under Being No. 643 for the year 1945 there is emphatic mention of 17 (Seventeen) Cottahs of tank in the property premises at question. The registered Sale Deed under Being No. 643 for the year 1945 is also a Public Document preserved in the office of the Sub-registrar of Sealdah as Government Record which is annexed in the instant IA/44/2024/EZ as Annexure 'C' page 40 to 49. So, when also in this third



public document and government record the fact of 17 (Seventeen) Cottahs of tank present in the premises at question then the same cannot be ousted any denied by the Private Respondents at all times to come.

11. That, furthermore I state that during the residing of the grandfathers of the applicant/ petitioner, Begum Lutfunnessa after purchase of the premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, while residing at 16, Syed Amir Ali Avenue, in the year 1962 Begum Lutfunnessa went for permanently residing at East Pakistan, and, as consequence, Guha Thakurta Families trespassed inside the original property premises No. 7, Tiljala Place and resided thereon, and, upon efflux of time the Guha Thakurta Families filed Title Suit No. 216 of 1979 and obtained order from the Court of Law and made execution of Deed of Partition under Being No. 481 for the year 1990, and, converted the original premises No. 7, Tiljala Place into premises No. 7A, 7B, 7C, 7D, 7E, and 7F, Tiljala Place, and, mutated their names. All these anomalies are vividly described in the contents and paragraphs of the instant IA/44/2024/EZ along with annexures.

12. It is pertinent to mention that the Guha Thakurta families taking advantage of Begum Lutfunnessa residing at erstwhile East Pakistan since the year 1962 trespassed inside the property premises at question and resided thereon. Thereafter these Guha Thakurta families misleading the Learned Court of law filed their alleged Title Suit No. 216 of 1979 before the Learned Court of 2<sup>nd</sup> Sub-Judge at Alipore for obtaining partition of the landed property premises at question and made false documents of registered Partition Deed under Being No. 481 for the year 1990 and converted the original premises No. 7, Tiljala Place, Calcutta into premises



Nos. 7A, 7B, 7C, 7D, 7E, and 7F, Tiljala Place and mutated their names in respect of the concerned landed property premises at question. In the said Partition Deed under Being No. 481 for the year 1990 the Guha Thakurta families purportedly and motivatedly deleted the mentioning of the fact of 17 (Seventeen) Cottahs of tank in the property premises at 7, Tiljala Place, and, thus the Guha Thakurta families inspite of having no locus standi in the concerned landed property premises at question made false document of registered Partition Deed under Being No. 481 for the year 1990.

13. Begum Lutfunnessa while residing at Bangladesh learnt about the anomalies and illegal activities of the Guha Thakurta families, filed Title Suit No. 53 of 2004 and decided for redressal of her grievances against the Guha Thakurta families wherein in this Title Suit No. 53 of 2004 the Private Respondents and their collaborators cropped in as Added Parties by hoodwink and misleading the learned Court of law, as aforesated in paragraph No. 9 and more vividly described in the instant IA/44/2024/EZ.
14. Thus, it is an established fact that the Guha Thakurta families and the Private Respondents and their collaborators are maintaining interlink and nexus in between themselves.
15. Lis pendens of Title Suit No. 53 of 2004, Begum Lutfunnessa while residing at Bangladesh since the year 1962, through her constituted attorney Amiruddin Ahmed (since deceased) executed registered Sale Deed No. 1240, 1239, 1238 and 1237 all for the year 1998 and sold out the entire original premises No. 7, Tiljala Place and part of 11, Dilkhusa Street, Calcutta, comprising of 1 (One) Bigha 13 (Thirteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft. land along with 17 (Seventeen) Cottahs of tank therein, to private respondent namely Javed Akhtar by Sale Deed No.



1240, to Private Respondent namely Irfan Javed by Sale Deed No. 1239, to Sahida Parveen wife of Javed Akhtar by Sale Deed No. 1238, and to private respondent namely Rehan Javed by Sale Deed No. 1237, in four equal parts of the original premises No. 7 Tiljala Place and part of 11, Dilkhusa Street, in said each Sale Deed. It is surprising to understand the nexus in between Begum Lutfunnessa and the private respondents, because, the mention of the 17 Cottahs of tank in the body of the aforementioned four Sale Deeds are emphatically mentioned, but, purportedly and motivatedly the mentioning of 17 Cottahs of tank has been deleted in the Schedule of the four Sale Deeds No. 1240, 1239, 1238 and 1237 all for the year 1998.

16. That, furthermore it is clear that there has been establishment of nexus also in between Begum Lutfunnessa and the Private Respondents and their collaborators as well as the Guha Thakurta families, because, while Begum Lutfunnessa filed Title Suit No. 53 of 2004 for redressal of her grievances against Guha Thakurta families wherein the Private Respondents and their collaborators cropped in as Added Defendants No. 11 to 14 in the Title Suit No. 53 of 2004 then, in Title Suit No. 53 of 2004 the Guha Thakurta families and the Private Respondents filed Counter Claim against plaintiff Begum Lutfunnessa with same prayers of the plaintiff in Title Suit No. 53 of 2004, and, the plaintiff Begum Lutfunnessa on account of death of her constituted attorney Manindra Kumar Ganguly got expunged from the Title Suit No. 53 of 2004, and the private respondents filed joint compromise petition with other defendants i.e., Guha Thakurta families, under order 23 rule 3 read with section 151 C.P.C., and also the private respondents filed one notarized Deed of Settlement dated 08.07.2010 with the Guha Thakurta families wherein the



private respondents have paid Rupees One Crore to the defendants Guha Thakurta families and obtained surrender of possession certificates all dated 08.07.2010 from the Guha Thakurta families, wherein it has been stated that all the created premises No. 7A to 7F, Tiljala Place are arising from original mother premises No. 7, Tiljala Place, Kolkata - 700017 as stated supra. The Learned Court of 9<sup>th</sup> Civil judge, Senior Division, Alipore, treating the Counter claim of the private respondents/ defendants as plaint and considering the compromise petition and Deed of Settlement, as stated supra, passed order dated 24.03.2011 and Decreed the Title Suit No. 53 of 2004 treating the compromise petition and Deed of Settlement as part and Parcel of the Decree.

17. That, the word '*habendum*' means 'the part of a deed or conveyance which states the estate or quantity of interest to be granted'. As such, there is no question of 'carry forward' of the statement of the previous Deed of the Vendor under Being No. 642 for the year 1945. It is pertinent to mention that whatever may be the circumstances, the Vendor Begum Lutfunnessa cannot sale out her landed property in premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, in the year 1998, while being a domicile of erstwhile East Pakistan and thereafter Bangladesh since the year 1962, after a lapse of 36 years, through her ordinarily appointed constituted attorney Amiruddin Ahmed (since deceased). So, it is evident that the four registered Sale Deeds under Being No. 1240, 1239, 1238 and 1237 all for the year 1998 emphatically speaks of presence of 17 (Seventeen) Cottahs of tank in the landed property premises at 7, Tiljala Place, Calcutta and the said four Sale Deeds are fourth, fifth, sixth and seventh Public Documents being Government Records kept in the custody of Registrar of Assurance, Kolkata. It is meaningless and total absurdity to speak of the



'carry forward' of the statements of previous deed into another specific different deed describing in the habendum about 17 (Seventeen) Cottahs of tank in the estate to be purchased by the Private Respondents, and, the Private Respondents turning a blind eye to the same and purchasing the property in question. It is more so astonishing to understand how the said 'carry forwarding' of 17 (Seventeen) Cottahs of tank took place in the Deeds of Private Respondents who are so prudently defending and conducting the instant case. The onus is on the Private Respondents to contradict the so-called 'carry forward' words upon providing corroborative evidence in the form of Government Records, but, so craftily the Private Respondents tried to shift their burden upon the Applicant/ Petitioner to prove their apparent alleged mistake of so-called 'carry forwarding' of 17 (Seventeen) Cottahs of tank in the four Sale Deeds of the Private Respondents which seems to be the foundation stone of the alleged title of the Private Respondents in the said property at question.

18. That, the question of construction of four storied building which is evident from the photograph at page No. H-265 as alleged by the Private Respondents, are all tissues of falsehood. The said four storied building which is in the photograph at Page No. H-265 is outside the periphery of the landed property premises at question, and, how the said plot with four storied building allegedly constructed in the year 1991 could be premises No. 7D, Tiljala Place, while the Private Respondents have previously stated in their Counter Affidavit in Original Application being OA/16/2024/EZ that all the premises No. 7, 7A, 7B, 7C, 7D, 7E and 7F Tiljala Place are amalgamated into premises No. 7A, Tiljala Place. Now how could the Private Respondents allegedly state that 7D, Tiljala Place had been constructed separately in the year 1991 and the same is outside the



periphery of the present 7A, Tiljala Place i.e., the property at question. In the event the premises No. 7D, Tiljala Place had been constructed with four storied building then it is not necessary that the same falls within the 17 (Seventeen) Cottahs of tank filled land, because the entire landed property premises No. 7, Tiljala Place and part of 11, Dilkhusha Street comprised of 1 (One) Bigha 13 (Thirteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft. of landed property. Keeping apart the 17 (Seventeen) Cottahs of tank in question there was ample solid land of more than 16 (Sixteen) Cottahs wherein a four storied building can easily be made. It can be presumed that the said four storied building has been constructed as early as in the year 1991 without any controversy as it was outside the purview of the said existing 17 (Seventeen) Cottahs of tank. Moreover, the Private Respondents have not provided any proof that the said four storied building is standing on the premises No. 7D, Tiljala Place, as alleged by them, and the plan of the said four storied building which has been annexed by the Private Respondents in Annexure 'D' is an absolutely vague paper with just some vague scribbling without any authentic and authentic description of premises or sanction plan number and other necessary specifications, stamp and seal of appropriate authorities. It is very much pertinent to mention that the four Sale Deeds i.e., the Sale Deed Nos. 1240, 1239, 1238 and 1237 all for the year 1998 by virtue of which the Private Respondents alleged to have purchased all the premises No. 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place, does not have any mentioning of any four storied building, neither in the habendum nor in the Schedule of the said four Sale Deeds. The Annexure at page H-264, H-265, H-266 has been annexed by the Applicant to show the ongoing construction in the



month of April and May, 2024 carried on by the Private Respondents in the disputed premises at question upon the tank filled land.

19. That, in the context of the alleged contentions of the Private Respondents in their Affidavit-in-Opposition as stated in paragraphs No. 16, 17 and 18, I do hereby state that the alleged statements and averments made in the concerned paragraphs are all camouflaging and eye washing statements craftily made to covert the illegal activities of making multi-storied building construction upon 17 (Seventeen) Cottahs of tank filled land by the Private Respondents in a preordained and concerted manner in nexus with the concerned authorities. In the aforementioned four Sale Deeds Begum Lutfunnessa as Vendor also stated in the Schedule of the concerned Sale Deeds that apart from one 2-storied old brick built-buildings there were also several other structures, fittings, fixtures, privy and water connection which were the structures made by the grandfathers of the Applicant/ Petitioner.

20. That, the Guha Thakurta families as well as the Private Respondents and their collaborators have no legs to stand in law as they have all created manufactured documents and false documents, in their illegal activities, the Vendor Begum Lutfunnessa have also committed illegal activities by selling landed property premises 7, Tiljala Place and part of 11, Dilkhusha Street, being a domicile of Bangladesh for 36 Years.



21. That, this Hon'ble Tribunal while making adjudication of the question as to whether the Private Respondents and their collaborators are making construction of multi-storied building upon 17 (Seventeen) Cottahs of tank filled land along with other solid lands, have to make adjudication of the deep rooted nexus of illegal activities committed by the Guha Thakurta

families, Begum Lutfunnessa as well as the Private Respondents and their collaborators by making and creating all documents to suit the purpose of the illegal activities of filling up 17 (Seventeen) Cottahs of tank and making construction of multi-storied building therein upon amalgamation of other solid lands with the same, and by utilizing the concerned appropriate authorities of the State as well as by misleading the Learned Courts of law and terming the same as 'by operation of law', and craftily drafting documents and creating false documents for ratification of the same by concerned authorities, the Private Respondents and their collaborators at present have reached to the saturation point of their activities and determined to fulfil their wrongful gains upon completing the construction of multi-storied building in the disputed premises property at question.

22. That, for the purpose of proper adjudication of the matter in concern, all the created false documents should be set aside, and, the seven public Documents being all Deeds and Calcutta Municipal Corporation Hut Sanction Plan are to be considered by the Hon'ble Tribunal.
23. That, finding no other alternative the Applicant/ Petitioner has made efforts before the Hon'ble Tribunal to bring into light and to set into action the Courts of Law for restraining the Private Respondents and their collaborators and all concerned nexus, for curbing the crime committed by the Private Respondents and their nexus which is very eminent and emergent, and, as such, all the letters and complaints filed before all concerned authorities by the Applicant/ Petitioner did not yield any result because of the nexus in between the Private Respondents and other authorities. The Municipal Commissioner, Kolkata Municipal Corporation is the final authority to stop illegalities committed upon land by all



concerned persons and bodies prevailing in the city of Kolkata. Herein it is unfortunate to understand as to how the Private Respondents obtained building sanction plan for construction of multi-storied building, how and why it has become necessary to create 1.7 Cottahs of waterbody and the same being ratified by the authority of Kolkata Municipal Corporation, how the Guha Tahkurta families who are rank trespassers and outsiders filed partition suit and obtained decree from Learned Courts of law and thereafter executes registered Partition Deed, and, as to how Begum Lutfunnessa being domicile of Bangladesh files Title Suit No. 53 of 2004 for redressal of grievances in the landed property premises at question through an ordinarily appointed constituted attorney, and, thereafter upon death of the attorney Begum Lutfunnessa is ousted from her Title Suit No. 53 of 2004 and the Private Respondents No. 11 to 14 becomes Added Party Defendants in the Title Suit No. 53 of 2004, and, thereafter upon considering the compromise petition and settlement documents Decree is passed by the Learned Court in favour of the Defendants and Added Defendants i.e., Private Respondents, and, thereafter upon notarial document the Guha Thakurta families receives money providing surrender of possession of the landed property premises in question to the Private Respondents by stating that all the landed property premises No. 7A to 7F, Tiljala Place, Calcutta.

24. I do hereby state that all the annexures provided by the Private Respondents in their Affidavit-in-Opposition are all ineligible and save and except the photocopy of Power of Attorney and the Affidavit-in-Opposition all other annexures are vague, created and does not bear any impact in law and judicial introspection.



25. So, whatever the Private Respondents have made their alleged contentions in foregoing paragraphs No. 19, 20, 21, 22, 23 and 24 in their affidavit-in-opposition, are all tissues of falsehood, and, craftily drafting covetous method of misleading the Hon'ble Tribunal for concealing the purportedly motivated crime of filling up of 17 (Seventeen) Cottahs of tank and amalgamating the tank filled land with other solid land and making construction of multi-storied building therein, and, the Kolkata Municipal Corporation Assessment record also stating that the premises No. 7A, Tiljala Place is comprised of 30 (Thirty) Cottahs 14 (Fourteen) Chittacks 20 (Twenty) sq. ft. of land comprising of dwelling house, godown land and tank filled land having Assessee No. 110653200042 mutated in the name of the Private Respondents Javed Akhtar, Rehan Javed, Irfan Javed and their collaborator Shaheda Parveen, wife of Javed Akhtar as owner of the concerned premises marked as Annexure 'G' page 253 of the instant IA/44/2024/EZ emphatically states to come into conclusion that there was 17 (Seventeen) Cottahs of tank in the concerned property premises at question, and, upon amalgamation of premises No. 7A, to 7F, Tiljala Place, Premises No. 7A, Tiljala Road has been created by Private Respondents in order to make construction of multi-storied building upon the 17 (Seventeen) Cottahs tank filled land amalgamated with solid land in the concerned premises at question as stated in the foregoing paragraphs of this Affidavit-in-Reply as well as vividly described in the instant Application numbered as IA/44/2024/EZ.



26. That, the Applicant/ Petitioner has vividly described all the illegalities of the Private Respondents and all concerned persons and authorities in its application IA/44/2024/EZ, and, herein no further elaboration is required, for meeting the Ends-of-Justice by the Hon'ble Tribunal.

27. That, the Applicant/ Petitioner craves Leave of the Hon'ble Tribunal to file all further necessary documents and harp upon all points of law, at the time of hearing of the IA/44/2024/EZ.
28. That, in view of the aforestated statements made by the Applicant/ Petitioner Md. Humayun Abbas, it is hereby ardently prayed before the Hon'ble Tribunal to pass all necessary order/orders restraining the Private Respondents and their men and agents from making further construction of multi-storied building in the impugned alleged premises No. 7A, Tiljala Place, Kolkata - 700017, till disposal of the instant OA/16/2024/EZ, for the Ends-of-Justice, and to pass an interim order of injunction in terms of prayer as stated in IA/44/2024/EZ, and to pass such further order/orders, direction/ directions as the Hon'ble Tribunal deems fit and necessary for the Ends-of-Justice.
29. That, the aforestated statements and averments are true to the best of my knowledge.

Md. Humayun Abbas  
Deponent

Identified by me

Rifa Mebi  
Advocate.

Solemnly declare and affirmed  
before me on identification under  
the Notaries Act.

Marufa Khatoon

MARUFA KHATOON  
Notary Public Govt. of India  
Regd. No.-13815/2018  
Alipore Judges Court



26 AUG 2024

No. 2985 + H 3/16

To

Shakti Md. Hashem,  
7, Dil Khosa St.  
Cal

CORPORATION OF CALCUTTA



26 AUG 2024

Form No. C. A. 4.

CORPORATION OF CALCUTTA.

HUT SANCTION UNDER RULE 84 OF SCHEDULE XVII OF THE CALCUTTA MUNICIPAL ACT, 1923.

Serial No. 11409 H. S. No. 57 of 7.8.34

To Sr. Mohammad Hoshem  
7 Bellhouse Street

Sir,

The Corporation hereby, grants permission to execute the work as per plan, sections and specification submitted with your application dated 10.7.34 to ~~erect a new building i.e. a Hut~~ alter and add to the Hut at premises No. 7 Digala Place under Rule 84 of Schedule XVII of Calcutta Municipal Act, 1923.

Yours faithfully  
*[Signature]*

CENTRAL MUNICIPAL OFFICE :  
Date.....  
9-8-34

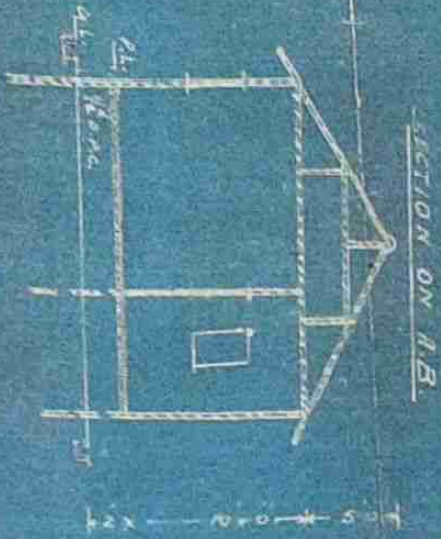
7/17  
7/8 District Building Surveyor,  
District No. III



26 AUG 2024

— PROPOSE PLAN OF C.I. ROOF —  
— AT NO 7 TILJALA PLACE —  
— SCALE 8 FT = 1 INCH —

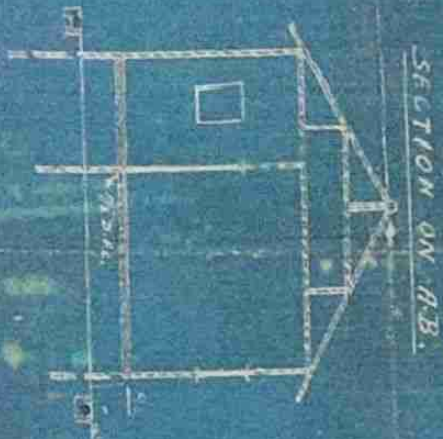
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SECTION ON A-B



GROUND FLOOR PLAN

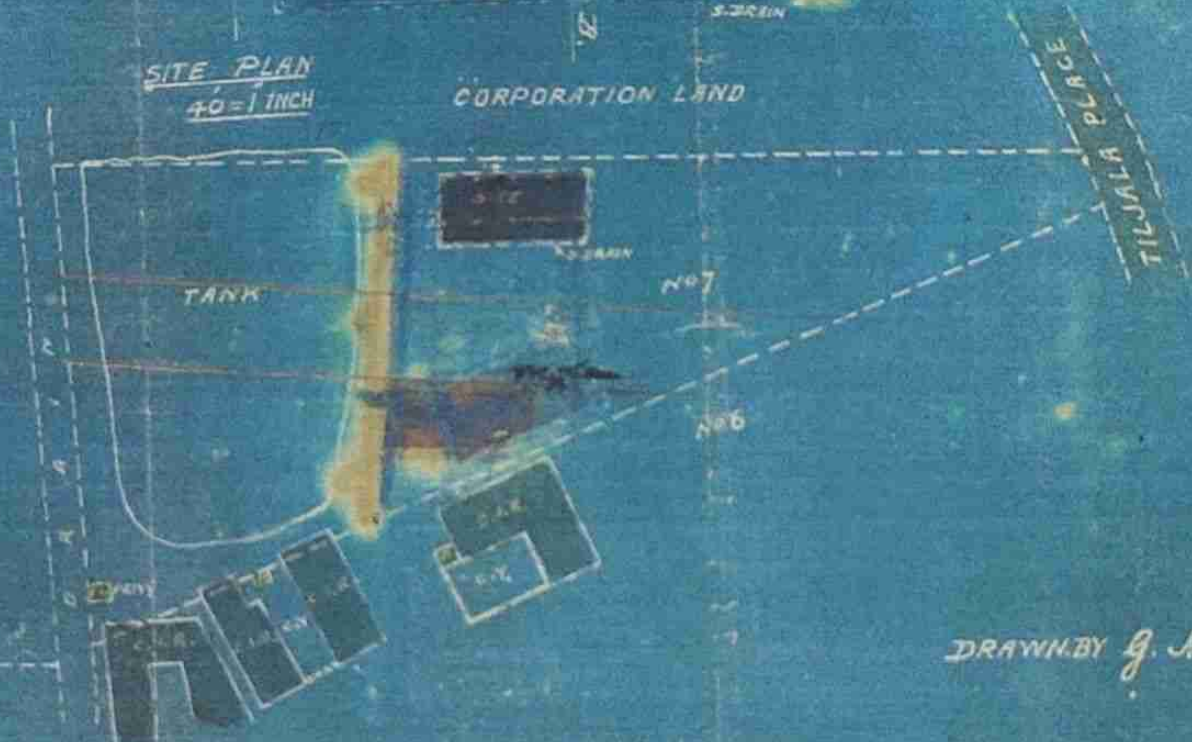


SECTION ON A-B



GROUND FLOOR PLAN

SITE PLAN  
40 = 1 INCH



CORPORATION LAND

TILJALA PLACE

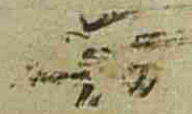
TANK

No 7

No 6

OWNER  
7 DILKUSH ST

DRAWN BY G. Mohan



26 AUG 2024



28



GOVERNMENT OF INDIA  
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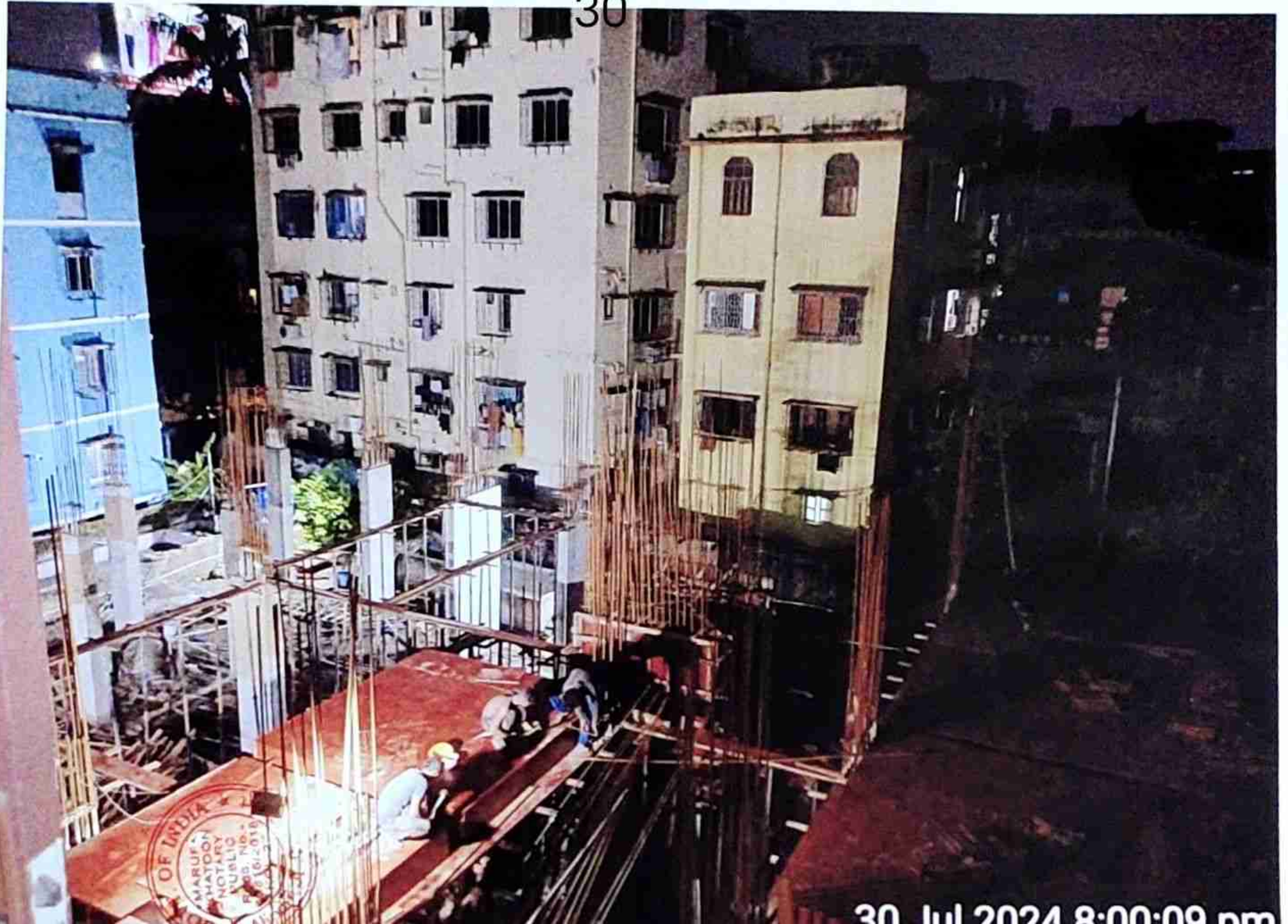
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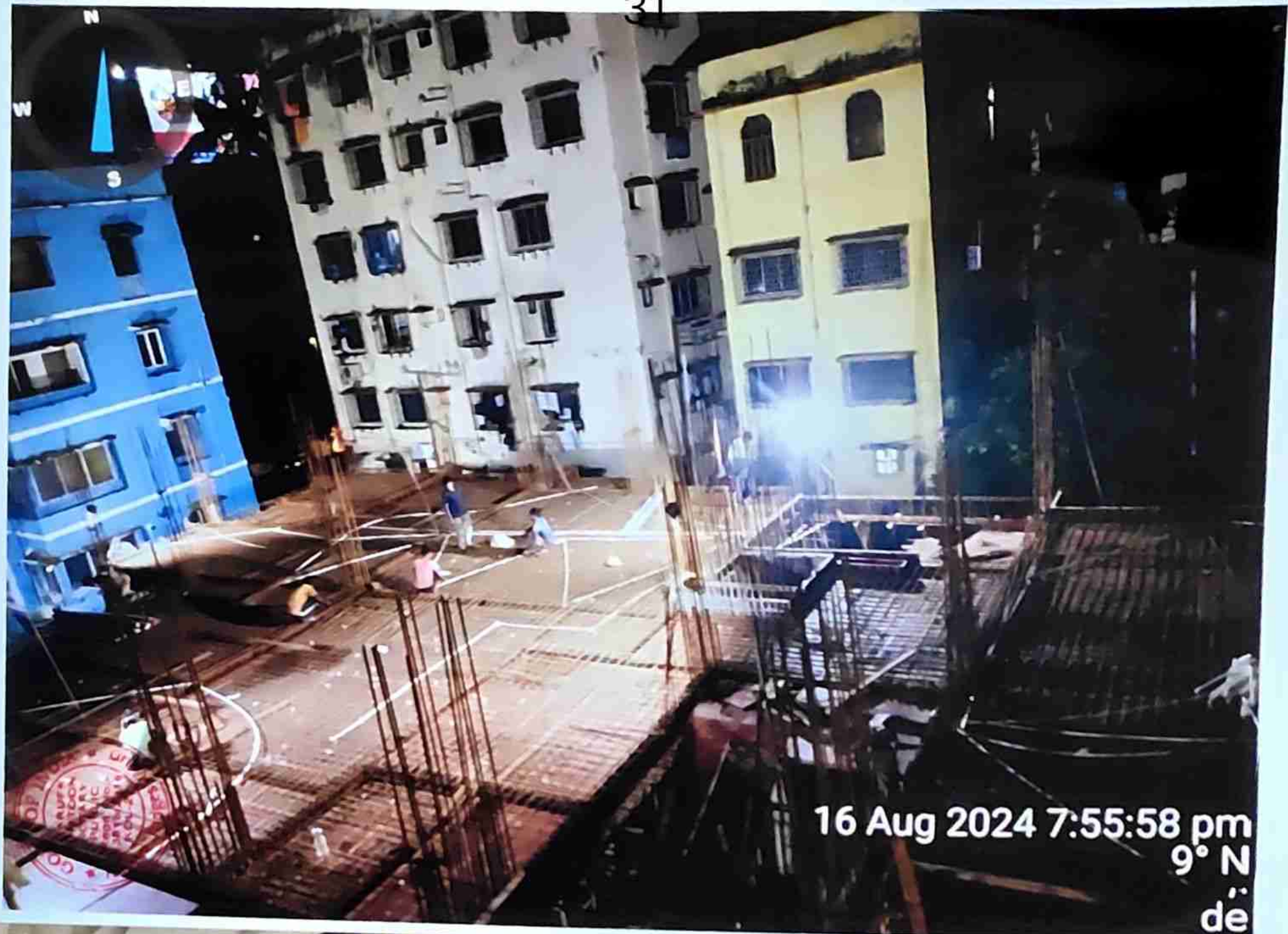
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OPINION OF THE  
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Nilanjan Pal

last seen today at 10:55 AM



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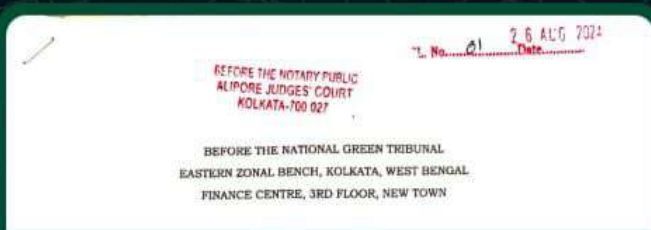
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Message





Sibojyoti Chakrabarti

online



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July 6, 2024

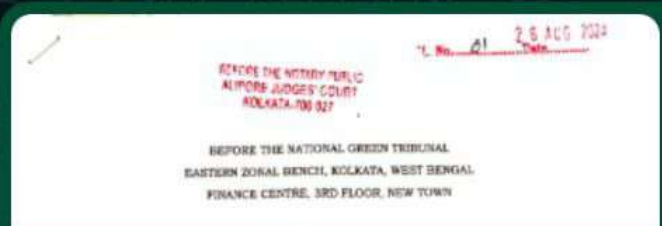
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Message





Dipanjan Ghosh



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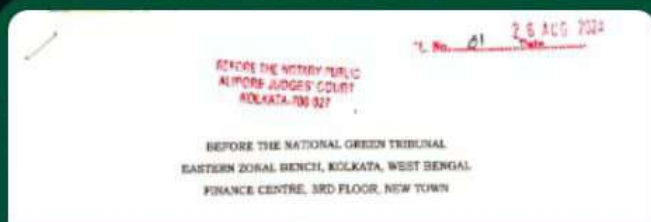
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July 6, 2024

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Shareq Siddique

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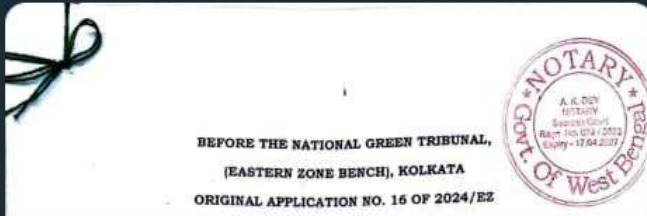
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Regards Advocate Zafar Mobin

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July 9, 2024

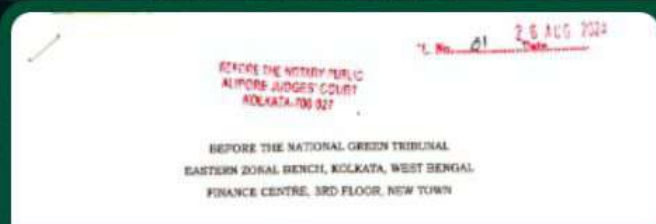


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Message



Subject: Affidavit -in-reply

From: ZAFAR MOBIN<zafar.mobin@rediffmail.com> on Tue, 27 Aug 2024 22:45:27

To: "mc"<mc@kmcgov.in>

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**1 attachment(s)** - Affidavit\_in\_reply\_by\_applicant.pdf (3.68MB)

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Please find attached copy of Affidavit-in-reply, to be filed in OA/16/2024/EZ before the National Green Tribunal, by the petitioner/ Applicant Md. Humayun Abbas

Thanking you....

.....Regards  
Zafar Mobin Advocate