

S.L. No. 29/23-

BEFORE THE NATIONAL GREEN TRIBUNAL  
Eastern Zone Bench, Kolkata.

Original Application No. 64/2023/ EZ.

Raghunath Maity.

... Applicant.

- v\_e\_r\_s\_u\_s -

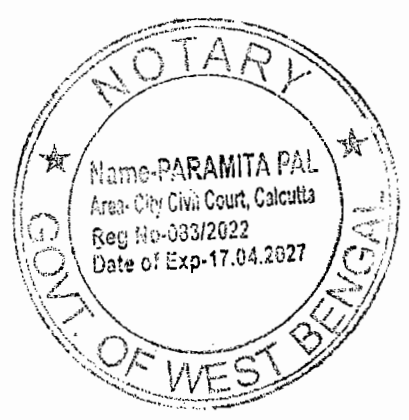
The West Bengal Pollution  
Control Board and others.

... Respondents.

COUNTER-AFFIDAVIT on behalf of the respondent no. 6.

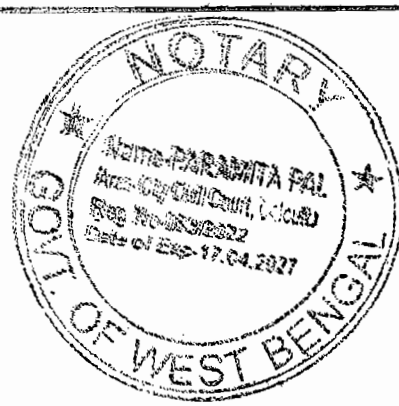
" I N D E X "

<u>Sl. No.</u>	<u>Particulars.</u>	<u>Annexure</u>	<u>Pages.</u>
1).	Affidavit		1 to 5

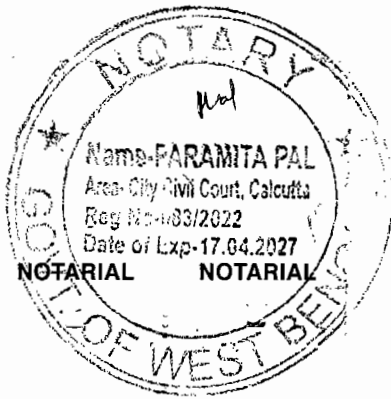


*Arshad Hussain*  
 Filed by :  
 Arshad Hussain,  
 Advocate,  
 High Court, Calcutta.  
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21 AUG 2023



BEFORE THE NATIONAL GREEN TRIBUNAL,  
Eastern Zone Bench,  
KOLKATA.



Original Application No. 64/2023/ EZ.

Shri Raghunath Maity.

... Applicant.

- v\_e\_r\_s\_u\_s -

The West Bengal Pollution Control Board.

... Respondents.

COUNTER-AFFIDAVIT on behalf of the respondent no.6 :

I, Subhankar Das son of late Dipak Kumar Das of village Bakhrabaj, Post Office Meghadangor, P. S. Panskura, District Purba Medinipur, Pin-721 152, aged about 25 years, by faith Hindu, by occupation unemployed do hereby solemnly affirm and say as follows :

1. That a copy of the Original Application verified by one Raghunath Maity on 11.5.2023 was served upon my mother Mithu Rani Das and me. I have gone through the same and understood the purported meaning and contents thereof.

I have been advised by my learned Advocate to deal with those portions of the said original application (hereinafter refer to as the said application) which are material for the disposal of the application.

2(a). That before dealing with the statements and allegation made in the said application in seriatim, I with the kind leave

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continued ..... /

- :: ( 2 ) :: -

of the Tribunal beg to make the following statements and sub-  
missions for the kind consideration of the Hon'ble Tribunal.

That the instant application is not at all maintainable  
and hit by Section 14(3) of the National Green Tribunal Act,  
2010 in as much as there was no cause of action for filing the  
instant application. Moreso, from the plan reading of the appli-  
cation it would appear that the alleged dispute arose long ago  
in 2005. After December, 2019 the alleged Mill has not been  
working and no existance therefore and as such there is no  
cause of action. The instant application is hopelessly time  
barred and nothing but misconceived and frivolous and as such  
liable to be dismissed with exemplary cost.

(b). That the application is defective for non-joinder of  
proper parties as dead person has impleaded as party respondent.

(c). That the applicant Raghunath Maity is a habitual cheat  
and fraud. I the instant application he has made misleading  
statements suppressing the relevant material facts. By his  
inadequate and misleading information and statements the appli-  
cant has been inviting unsound decisions. The instant applica-  
tion is nothing but gross abuse of judicial Power and thereby  
seeking to inflict wounds upon the persons whose pressador in  
interest died due to the wounds and injury caused by the present  
applicant, Raghunath Maity.



That it is to be noted that against the judgement and  
order dated 2.12.2019 passed by this Hon'ble Tribunal the prede-  
cessor-in-interest of this deponent Dipak Kumar Das filed a

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continued ..... /

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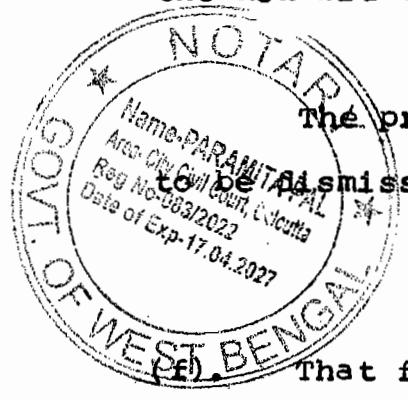
Special Leave Petition being Civil Appeal Nos.4760 & 4761 of 2021 in the Hon'ble Supreme Court where-in on 24.9.2021 the Hon'ble Supreme Court ordered inter alia that if the representation is submitted to the competent authority, the competent authority has to consider it in accordance with law (page 166 in the application).

So applying the doctrine of merger the order of the Hon'ble Tribunal passed on 2.12.2019 (page 155 to 157 in the application) has merged with the order of the Hon'ble Supreme Court and therefore is no scope of any realisation of environmental compensation.

Moreover, the person against whom the order was passed by the Tribunal died long ago on June 3, 2021. A dead person cannot and should not be prosecuted and/or sued. In the instant case the applicant suppressing all those things filed the instant application. The same is wholly misconceived, frivolous and nothing but abuse of the process of law and court and as such liable to be dismissed.

(e). That from the prayer as made in paragraph no.7 of the application it would appear that this is nothing but pre-emptive application and such prayer is contrary to the order passed by the Hon'ble Supreme Court.

The pre-matured and misconceived application is liable to be dismissed.



That from the prayer as made in paragraph no.8 it would appear that the said prayer is vague and not maintainable either

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continued ..... /

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in law and in fact. The law and order is to be maintained by the Police administration. The applicant has got no business to that effect.

So considering all those aspects this Hon'ble Tribunal may be pleased to dismiss the application.

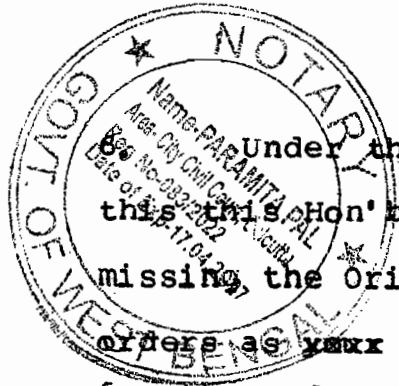
I reserve my right to make further submissions if necessary, at the time of hearing of the Original Application.

3. That as regards the statements and submissions made in said application under various paragraphs excepting the matters of record I deny each and every statements and allegations. All statements and allegations are vague, stale, baseless, unfounded, untrust-worthy and denied by me.

4. That the grounds are all vague, bogus, unfounded, baseless and not goods grounds at all.

So considering the pros and cons of the matter this Hon'ble Tribunal may be pleased to dismiss the application and thereby allow a dead soul to rest in peace.

5. This ~~xxxx~~ Counter affidavit is made bonafide and for the ends of justice.



Under the circumstances it is most respectfully prayed this Hon'ble Tribunal may be pleased to pass an order dismissing the Original Application and pass such other order or orders as ~~xxxx~~ this Hon'ble Tribunal may deem fit and proper for the ends of justice.

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Subhankar Das  
Deponent.

- :: ( 5 ) :: -

: V \_ E \_ R \_ I \_ F \_ I \_ C \_ A \_ T \_ I \_ O \_ N :

I, Subhankar Das son of late Dipak Kumar Das of village Bakhrabaj, Post Office Meghadangor, P. S. Panskura, District Purba Medinipur, Pin-721 152 do hereby solemnly declare and say as follows :

- 1. That I am the son of late Dipak Kumar Das who was proprietor of the unit and I am well acquainted with the facts and circumstances of the instant Original application.
- 2. That the statements made in paragraphs 1,2(a),(b),(c), (d),3 are true to my knowledge and information derived from the records which I verily beleive to be true and the rest are my humble submissions before this Hon'ble Tribunal.

Identified and settled by me.  
Identified by me  
*Arshad Hussain*  
Advocate.  
on behalf of defendant unit.

*Subhankar Das*  
Deponent.

Solemnly affirmed and declared  
Before me on Identification  
*Paramita Pal*  
PARAMITA PAL  
City Civil Court  
Kolkata  
Reg. No- 083/2022



21 AUG 2023

BEFORE THE NATIONAL GREEN TRIBUNAL  
EASTERN ZONE BENCH  
KOLKATA.

Original Application No. 64/2023/EZ.

Shri Raghunath Maity.

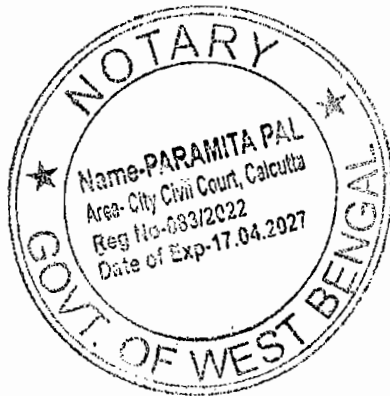
... Applicant.

- versus -

The West Bengal Pollution Control Board.

... Respondents.

COUNTER AFFIDAVIT ON BEHALF OF  
RESPONDENT NO. 6.



Arshad Hossain,  
c/o. Golam Mastafa,  
Advocate for the respondent no. 6,  
Bar Association Room No. 6,  
High Court, Calcutta.

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