

**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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Filed by:

*S. K. Dutta*

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



**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL****EASTERN ZONE BENCH, KOLKATA****ORIGINAL APPLICATION NO. 12/2024/EZ**

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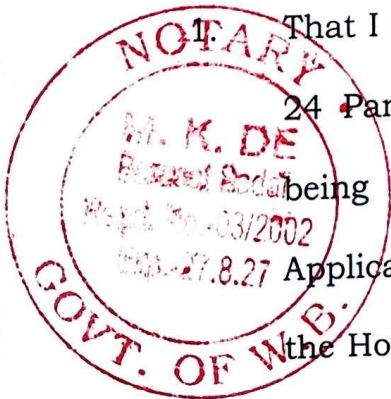
.....Respondent(s)

BEFORE THE NOTARY PUBLIC  
24 PARGANAS (NORTH)

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

789  
07 JAN 2025  
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: -

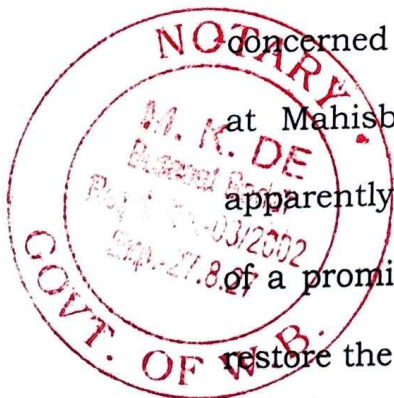
That I am working as District Magistrate and District Collector, North 24 Parganas, having my office at Barasat, North 24 Parganas and being impleaded as Respondent No. 5 to the instant Original Application, I have been directed by the Hon'ble Eastern Zone Bench of the Hon'ble National Green Tribunal on 24.07.2024 to file the present



affidavit to ascertain whether the change of character of the subject land took place before 24.03.1986, i.e. the date of publication in the Official Gazette in the West Bengal Land Reforms (Amendment) Act, 1981 and the Hon'ble Tribunal was further pleased to direct the District Magistrate, North 24 Parganas to file affidavit stating as to why the said enquiry has not been done and not filed before this Court/Tribunal.

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.

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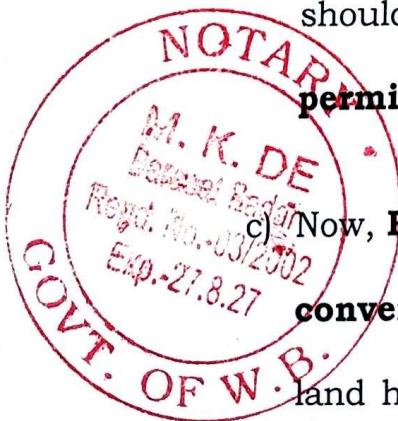
5. That in the counter affidavit filed by the present deponent on 19.07.2024 the context of Rule 166 of WBLR Manual was narrated in details and for the purpose of adjudication the para 12 and 13 in entirety are further placed hereunder for kind consideration of this Hon'ble Bench.

**Para 12:**

- a) 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:
- b) **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.**

c) 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**

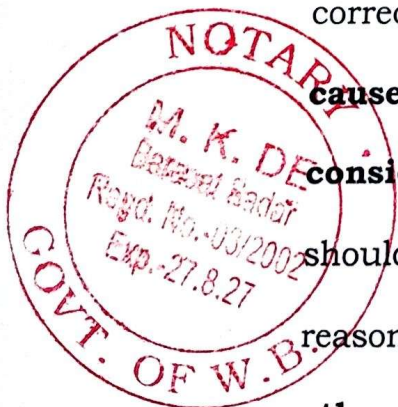
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**appearing from the record-of-rights.** Such a case should normally be dealt with under section 4(4). In such cases, it should be enquired as to whether the change in use has been made in the usual course of nature or by deliberate action on the part 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.**

- d) 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**

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**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.

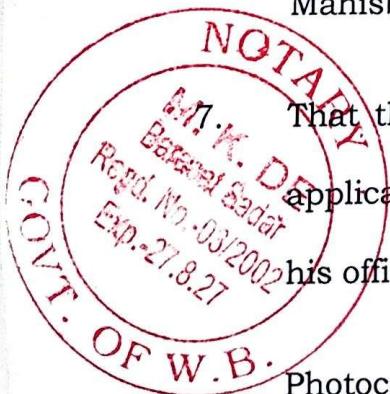
**Para- 13:**

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.

6. That having highest regards and veneration to the order of the Hon'ble Tribunal dated 24.07.2024 the concerned BL&LRO was further asked to enquire and submit a report regarding applicability of Rule 166 of WBLR Manual with respect to RS/LR Plot No. 166 of Mouza-Mahisbathan.

That the BL&LRO, Rajarhat duly enquired into the matter regarding applicability of Rule 166 of WBLR Manual and submitted a report vide his office memo no. 14/BL&LRO/RHT/25 dated 06.01.2025.

Photocopy of the said letter is annexed as 'R-1'.

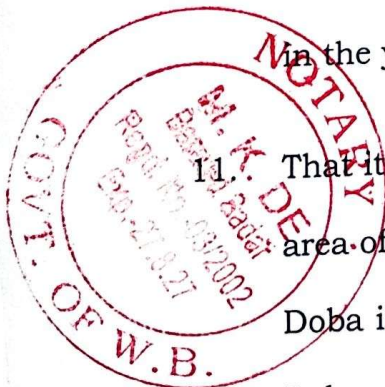


8. That at the time of enquiry the recorded raiyat submitted two deeds being no. 2004 of 1941 and 1047 of 1941 to prove that CS plot no. 221 had been mentioned as Shali in support of their case.
9. That on scrutiny of revisional settlement record of rights being RS Khatian No. 193 it appears that classification of RS plot no. 166 which originated from CS plot no. 221 was changed into Doba striking out Shali and as such it is evident that the subject plot was existing as a water body during the revisional settlement operation which was continuing during 1957.

Photocopy of the revisional settlement record of rights is annexed as 'R-2'.

10. That it is further evident from the report of the concerned BL&LRO and revisional settlement record of rights that the subject plot being RS/LR plot no. 166 is a water body since revisional settlement operation and continued up to settlement operation under the provision of West Bengal Land Reforms Act and classification featured in the record of rights ought to be relied instead of two deeds executed in the year 1941.

11. That it is further evident the subject RS/LR plot no. 166 measuring an area of 0.26 acre of Mouza- Mahisbathan, J.L. No. 18 was classified as Doba in revisional settlement record of rights and further classified as Pukur in record of rights created during Land Reforms operation and

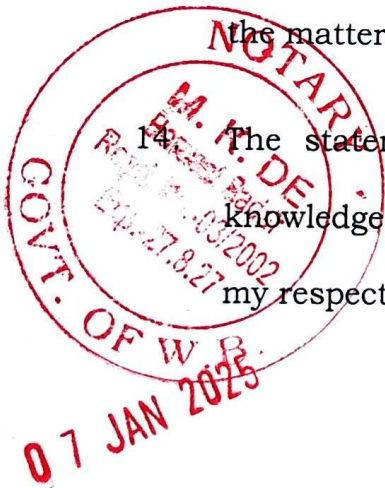


as such the subject plot retained the water body nature until its character was changed unauthorizedly and there is no documentary evidence which can substantiate the claim that the alteration in the nature of subject plot occurred before 24.03.1986.

12. That it is evident from the present enquiry report conducted on 03.01.2025 and the revisional settlement record of rights that rule 166 of WBLR Manual is not applicable in this instant case.

13. 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.

14. The statements made in paragraphs 1, 3 to 11 are true to my knowledge based on information derived from records and the rest are my respectful submissions before this Hon'ble Tribunal.



Prepared in my office

Identified by me

Advocate

S. K. Dutta

Sharan Kumar Dwivedi  
Deponent is known to me

W.B.

**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 ~~20~~ day of January, 2025.

*[Red scribble]*

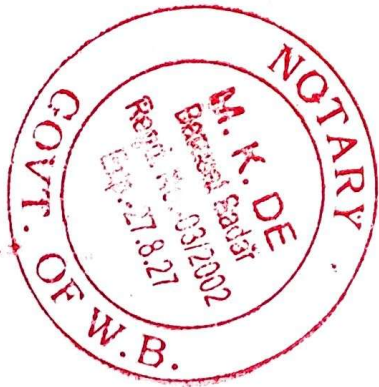
Sharad Kumar Dwivedi  
Deponent

Identified by me  
S. K. Dutta.  
Advocate

07 JAN 2025

Solemnly Affirmed Before Me  
on 07th Day of Jan 2025  
Duty Identified by S. K. Dutta  
Advocate

*[Signature]*  
M. K. DE  
Notary (W.B.)  
Barasat, North 24 Pgs.  
Regd. No.-03/2002



07 JAN 2025  
CHECKED BY  
*[Signature]*  
NOTARY CLERK



**Government of West Bengal  
Office of the Block Land & Land Reforms Officer,  
Rajarhat, North 24 Pgs.**

Memo No. 16 /BL&LRO/RHT/25

Date- 06.01.2025

To  
The Additional District Magistrate &  
District Land & Land Reforms Officer,  
North 24 Parganas, Barasat.

**Sub : Enquiry regarding applicability of Rule 166 of WBLR Manual w.r.to RS / LR plot no. 166 under Mouja- Mahisbathan, Block- Rajarhat i.c.w. solemn order dated 24.07.2024 passed by the Hon'ble NGT (EZ) in O.A. No. 12/2024/EZ in the matter of Re: 14 cottah Mahisbathan pond turns into field, B.M.C. steps in Kokata, W.B.-Vs- Pricipal Secretary, Department of Environment, Govt of West Bengal & Ors.**

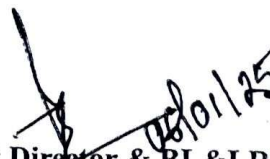
Sir,

In connection with the above noted subject, this to be informed you that :

A field enquiry was made by the concerned revenue Inspector on 03.01.2025. From this enquiry and on scrutiny of records it is transpired that :

1. The suit RS/LR plot no. 166 of Mouja- Mahisbathan, J.L. No.- 18 is found classified as 'DOBA' in RS RoR & classified as 'PUKUR' in LR RoR with area 0.26 acre
2. During field visit it is found that approx. 22 decimal land appears as vacant danga land & rest 4 decimal land is comprised of club ( named as Dr. Bidhan Chandra Smriti Sangha ), a tin-shed structure with brick wall and a shop .
3. The recorded raiyat submitted two deeds being no. 2004 of 1941, 1047 of 1941 where CS plot no. 221 had been mentioned as 'SHALI'. But, from RS RoR ( RS Khatian No. 193 ) it is clearly seen that classification of RS plot no. 166, corresponding to CS plot no. 221 seems as 'DOBA' striking out 'SHALI'.
4. That means the suit plot no. 166 is an waterbody since RS operation to LR operation. No documentary evidence is found to substantiate that the alteration or change of classification of the suit plot occurred before 24.03.1986. Hence, Rule 166 of WBLR Manual is not applicable here.

This is for your kind perusal & consideration.

  
Assistant Director & BL&LRO  
Rajarhat, North 24 Parganas

Mouza: Mahisbatan Dist: North 24 Parganas P.S. Rajarhat		Re Sa No. 203 Pargana: Kolkata		J.L.No.18 Khatian No.193, Touzi No.147			
In respect of Superior Right		Payable in respect of this right		Cess	Remarks	Under section and from date	
Khatian No.	Particulars & Possessor in brief	Respective Share	Rent			Khajna	Cess
169	Bhabanipur Jamidari  Anadi Nath Das & Gong	5000  5000			Poypajan No.20		
Group No	Particulars & Possessor of this right	Share	Particulars and possessors Of this right	Class of this right and special rule and appendix			
1	Bijon Kamini Mondal S/O Banaram Mondal Address: Nij	10000	Raiyat Mokrori				

Khatian NO.193		Land in khas possession in this right								
Plot no.		Possessor in Northern precinct	Classification	Remarks	Total area( Acre)		Share	Area		
					Acre	Decimal				
***	****	****	****	*****	*****	*****	*****	*****	****	****
***	****	****	****	*****	*****	*****	*****	*****	****	****
***	****	****	****	*****	*****	*****	*****	*****	****	****
166	221	Lakhmi kanat Gong	Shali Doba	*****	*****	*****	10000	*****	0.26	****
***	***	*****	****	*****	*****	*****	*****	*****	****	****
***	***	*****	****	*****	*****	*****	*****	*****	****	****
Total area of the land under own possession										
Khatian Number of the recipient of rent				List of different khatian of subordinate right						
Total area under subordinate right										
Grand Total										

মৌজা মহিবাবাদন  
 জিলা ২৪ পরগণা  
 বানা রাজারহাট

মে: এল: নং ১৮  
 খতিয়ান নং ১৯৩  
 ভৌমি নং ১৪৭

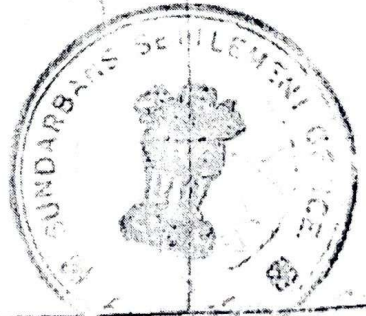
১২/১/৭৯

উপরিস্থ স্বত্বের		অত্র স্বত্বের মেয়		মন্তব্য	ধারামতে ও কোন মন ওয়তে আনবে আশিয়ে	
ধরলকার সংক্ষিপ্ত	গরল্পক সংল	খাজানা	মেয়		খাজানা	মেয়
১. ১০০০	১০০০	১০০০	১০০০	১০০০	১০০০	
২. ১০০০	১০০০	১০০০	১০০০	১০০০	১০০০	
৩. ১০০০	১০০০	১০০০	১০০০	১০০০	১০০০	

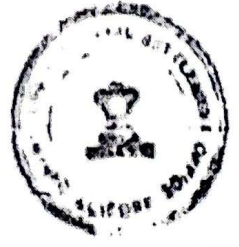
**ATTESTED**  
 Officer,  
 ১২/১/৭৯

ক্রম নং	অত্র স্বত্বের বিবরণ ও ধরলকার	সংখ্যা	স্বত্বের শ্রেণী ও বিবরণ	স্বত্বের বিশেষ নিয়ম ও অনুলম
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১.	১০০০	১০০০	১০০০	১০০০
২.	১০০০	১০০০	১০০০	১০০০
৩.	১০০০	১০০০	১০০০	১০০০



Records of this  
 finally published  
 (2) of  
 Acquisition



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 ধারামতে পরিপত্রন ও  
 মোকদ্দম নং

১০০০  
 ১০০০  
 ১০০০

খতিয়ান নং: ১৯৩

সকল বছরের নিজ দখলীয় জমি

দাগ নং	উৎসর সীমানার সীমানা চিত্র	কৃষিকর বন্দম	সরুদা	দায়িত্ব মোট বিভাগ		আস সংখ্যা	আস মোট	
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১২৩	২১৪ পাথ	১০০	উদয়			২	৪৫	
১২৬	২১৫ ক্র	১০০	ঘর ৪ গোলা ১ সন্তোষণ			১	২৫	
১২৭	২২১ কাম্বীকালুগ	১০০				১	৫২	
১২৫	২১৫ ৫৫৭ সন্তোষণ	১০০	ঘর ২ উদয়			১	১	
১২৯	২২০ ৫৫৭ সন্তোষণ	১০০				১	০২	
নিজ দখলীয় জমির মোট পরিমাণ							১	৫২

১৯/১০/১৯৫৮  
১৯/১০/১৯৫৮  
১৯/১০/১৯৫৮

খাজানা প্রাপকের খতিয়ান নং		অধীনস্থ বছরের খতিয়ান নং	
১৯৫৮ ২৫-৫	১৯৫৮ ২৫-৫		
অধীনস্থ বছরের মোট পরিমাণ			
সর্বমোট			

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**

**EASTERN ZONE BENCH, KOLKATA**

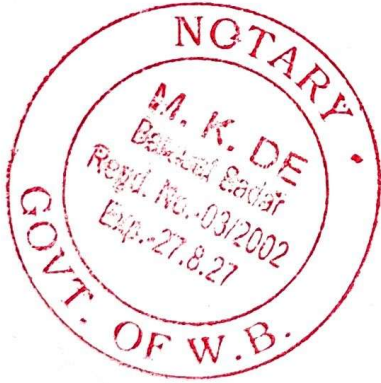
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**Application**

07 JAN 2025

*S.K. Dutta*

Sudip Kumar Dutta  
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State of W.B.