

SL. NO. 2379 J28 25

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, EASTERN ZONE
BENCH AT KOLKATA**

O. A. No. 12 of 2024/EZ

In the matter of :

In Re : '14 Cottahs Mahisbathan pond turns into
field, BMC steps, in Kolkata West Bengal'

.....Applicant

VS

Principal secretary Department of Environment &
Ors.

**BEFORE THE NOTARY PUBLIC
AT BISHANNAGAR
DIST. NORTH 24 PARGANAS**

.....Respondents

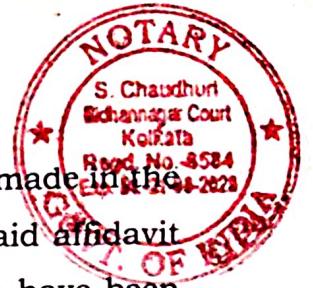
**AFFIDAVI IN REPLY ON BEHALF OF THE RESPONDENT NOS. 6, 7, 8 &
9 AGAINST COUNTER AFFIDAVIT FILED ON BEHALF OF THE
RESPONDENT NO. 5.**

I, Samar Kumar Mondal, son of Late Bhimchandra Mondal, aged about 73 years, by faith Hindu, by nationality Indian, by occupation business, residing at MB 38, Mahisbathan, Salt Lake – Sector V, Post Office – Krishnapur, Police Station – Electronic Complex, Ward No. 28, Kolkata - 700102, District- North 24 Parganas, do hereby solemnly affirm and sincerely state as follows:

1. That I am the Respondent No. 8 of the instant Original Application and as such I am well acquainted with the facts and circumstances of the case. I have been duly authorized by the Respondent Nos. 6, 7 and 9 as a constituted Attorney through a Power of Attorney dated 5th February, 2005 and I am also competent to sign and make affirm the instant affidavit on my behalf and on behalf of the Respondent being No. 6, 7 and 9.
2. That a copy of the Counter Affidavit dated 03.12.2024, on behalf of the Respondent No. 5 to this instant Original Application has been served upon me (herein after referred to as the "said Affidavit") and I have gone through the same and understood the contents and purport thereof.

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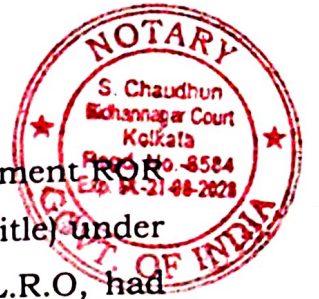
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3. Before dealing with the various allegations and/or statements made in the different paragraphs of the said affidavit, I submit that the said affidavit contains many incorrect allegations and/or statements which have been deliberately made only to mislead this Hon'ble Tribunal. I reserve my right to make further submissions on the issue at the time of hearing, if necessary.
4. Now I proceed to deal with the various averments and/or statements made in various paragraphs of the said affidavit. The statements and/or averments which are not specifically dealt with hereinafter are deemed not to be admitted.
5. With regard to the statements made in paragraph nos. 1 to 4 of the said affidavit, I offer no comment as the same are all matters of record and deny anything that which is inconsistent and/or contrary to the facts borne out from the records.
6. With regard to the statements made in paragraph nos. 5 to 10 of the said affidavit, I offer no comment as the same are all matters of record and deny anything that which is inconsistent and/or contrary to the facts borne out from the records. I specifically deny 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. I state that the predecessor in interest had purchased the plot in question in the year 1941 and in the "Tapashil" (Schedule) of both the deeds of 1941, the land transferred under C. S. Dag No. 221, clearly described and mentioned as "Shali" by classification and also in the C. S. Parcha of the C. S. recorded Owners so abovenamed, under C. S. Khatian No. 193, the entire C. S. Dag No. 221 (corresponding to R. S. & L. R. Dag No. 166) was clearly classified as "Shali". Thus, it is said that the classification of the said land was "Shali" from the very beginning i.e. since the framing of oldest Record of Right of the land of West Bengal, framed at the time of C. S. Zarip (popularly known as Cadastral Settlement Zarip).

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7. It is submitted that at the time of framing the Revisional Settlement ROR in the name of Late Bijan Bashini Mondal (our predecessor in title) under R. S. Khatian No. 210, the concerned authorities of B.L. & L.R.O, had inspected the said plot in question and probably, upon finding the rainwater in the low vacant land, altered the land classification from "Shali" to as "Doba" erroneously.
8. It is further submitted that the Respondent Nos. 6 to 9 received a Notice u/s 4C(5) of WBLR Act, 1955, dated 09.01.2024 vide Memo No. 22/ BLLRO/RHT/2024 from the B.L. & L.R.O, Rajarhat bearing the following subject: "Notice regarding illegal filling of water body" whereby and whereunder the said Respondents were informed that the nature character of the said land had been changed by the said Respondents, contrary to its classification as "pukur" in the L.R. Records and were directed to inform as to why necessary legal action would not be taken within 7 days of receipt of the said memo. On receipt of the same, the Respondents replied to the said notice on 18.01.2024 and meanwhile obtained and accumulated the C. S., R.S Record of Rights. Upon perusal of the same, surprised to find that the said land has been erroneously classified as 'doba' (by penning through the then existing word Shali) and then classified as 'Doba and pukur' at the time of framing R. S. and L.R. Record of Rights, respectively. Such fact came to the knowledge of the respondent nos. 6 to 9, only on receipt of the aforesaid notice from B.L. & L.R.O, dated 09.01.2024. The Respondents had no previous knowledge of such error in classification of the said land prior to receipt of the C.S. & R.S. ROR.
9. It is respectfully submitted that after getting the Knowledge of erroneous classification in consecutive RORs, the said Respondents upon consultation with their advocate, undertook necessary steps by filing an application u/s 4C read with 50(1)f of WBLR Act, 1955 before the B.L.& L.R.O, Rajarhat, through our Ld. Counsel on 05.02.2024 for correction and/or conversion and/or alteration the character of plot in question and the same is pending for adjudication and disposal. It is pertinent to mention that without considering the aforesaid application under Sections

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4C(1) to 4C(4) of the West Bengal Land Reforms Act, 1955, the concerned Block Land and Land Reforms Officer as well as the concerned Collector, North 24 Parganas cannot be initiated any proceeding under Section 4C(5) of the West Bengal Land Reforms Act, 1955 against the said respondents.

10. With regard to the statements made in paragraph nos. 11 to 20 of the said affidavit, I offer no comment as the same are all matters of record and deny anything that which is inconsistent and/or contrary to the facts borne out from the records. I say that the Rule 166 of the West Bengal Land Reforms Manual is not applicable in the instant proceeding as the said respondents had already submitted an application for correction and/or conversion and/or alteration the character of plot in question. Out of the total land comprised in R. S. & L. R. Dag No. 166, a portion of land was donated by predecessor-in-interest of the Respondents to a school namely "Mahisbathan Jatiya Pathshala" and there is also situated a club building namely "Dr. Bidhan Chandra Ray Smriti Sangha" and both of the school and club are in their respective possession for the past 71 and 51 years respectively without any dispute. Thus, it is clear and concise that the said land under dispute was solid land prior to 24.03.86. As there no such changes of classification were done by any person the question of seeking permission from the authority concern for such conversion does not arise here. Summarily it can be said that the said Rule is not applicable in this case and it is itself evident from the existence of the said club that there was no existence of water body since long back. Though it is admitted by Respondents that North East portion of the disputed land being depressed and flat land encouraged stagnant water, which becomes worse in rainy season in the absence of a proper drainage system. As it is known, excessive rainfall is a natural cause of waterlogging and water may remain on the land for several days especially if the soil has low porosity or permeability though in other seasons there is no trace of water in the said land. For this very reason in monsoon the said portion of the entire land has some rain water, clogged therein. As the locales often use the land for festivals and other functions, debris are also dumped by the locales. The

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major portion of the said land in question remains as vacant low land till
date.




11. Save and except matters of record and save what has been stated by me hereinbefore I do not admit any statement, averment, contention, submission as made/raised in the said affidavit as if the same are expressly denied by me in seriatim and specifically traversed.
12. That the statements made in paragraphs nos. 1 and 2 are true to my knowledge and belief and rest are my humble submission before this Hon'ble Tribunal.

Identified by me



Basudeb Patra
(BASUDEB PATRA)
Advocate

Enrolment:- WB/1224/11

Samar Kumar Mondal.
DEPONENT


S. CHAUDHURI
★ NOTARY ★
GOVT. OF INDIA
Regd. No.-6584/08
Bidhannagar Court
Dist.-North 24 Pgs.

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Identified by me

Advocate

MANOJ BASU
Advocate
Enrolment No.-F-247/2006
Bidhan Nagar Court
Kolkata-700091