

S.L. No. 27/25



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA, WEST BENGAL
ORIGINAL APPLICATION No. 213/ 2024/EZ

In The Matter of:

Sk. Harun ... Applicant

Versus

State of West Bengal & Ors.

... Respondents

COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENT NUMBER 6 & 7.

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Filed by

Krishnendu Bera

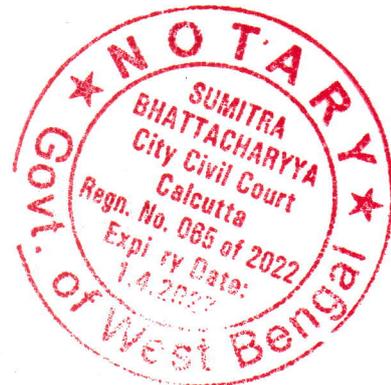
KRISHNENDU BERA

Advocate

For Respondent Number 6 & 7.

Email: krishnendubera87@gmail.com

(M): 9804470595



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA, WEST BENGAL
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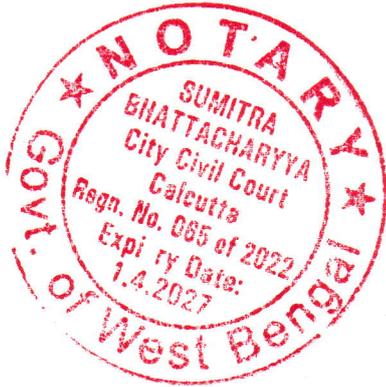
Sk. Harun

... Applicant

Versus

State of West Bengal & Ors.

... Respondents



COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENT
NUMBER 6 and 7.

I, Md. Samser, Son of Md. Satta, aged about 40 years, by faith-Muslim, by occupation-business, and residing at Bankra Purba Mishra Para, Domjur, P.O- Bankra, District- Howrah, Pin- 711403, do hereby solemnly affirm and submit as follows:-

1. That, by virtue of solemn order dated 27.11.2024 passed by the Hon'ble National Green Tribunal, the respondent no. 6 and 7 namely Md. Kalam and Md. Samser have been impleaded as party respondent in the instant original application and I am well acquainted with the facts and circumstances of the case and

duly authorized by the respondent no. 6 to sign, swear and affirm this counter affidavit for self and others.

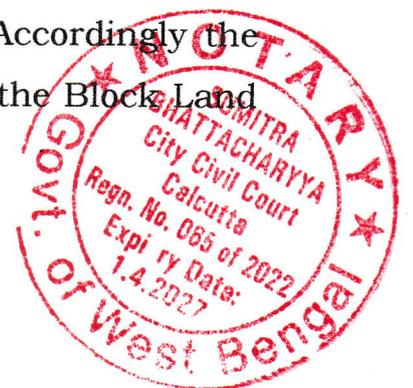
2. That this affidavit is filed in obedience to the Solemn Order dated 24.01.2025, passed by the Hon'ble National Green Tribunal, Eastern Zone Bench, Kolkata, wherein the Learned Advocate of this respondents had prayed for time for filing counter affidavit.
3. That the instant original application has been taken up for consideration on the basis of letter petition filed by the applicant dated 25.07.2024 interalia with the grievance that the respondent number 06 and 7 making illegal construction without obtaining sanction plan upon filling up Water bodies situated at agricultural land i.e Sali Land measuring about 0.0825 at Mouza Bankra, J.L. no. 55, P.S- Domjur, District-Howrah, L.R Dag no. 3065, L.R Khatian no. 12915, R.S Dag no. 3063, R.S Khatian no. 423 under Bankra Gram Panchayat no. III, which may be collapsed and can take life of 100 local persons.
4. It is the case of the applicant that after filling the water bodies as described in Schedule-A of the said letter petition the private respondents herein constructed the multi storied without leaving passage and pillars and also without sanction plan from the concerned authorities. It is further stated that the building wall and pillars are cracked due to over weighted and heavy pressure of illegal construction of floor in gross violation of Howrah Municipal Corporation building rules.



5. That at the outset the private respondents herein humbly submit before this Hon'ble Tribunal that we are the contractors who were engaged by the Developer to make construction of multi-storied building. That the private respondents are neither Promoter nor Developer which will be evident from the Development Agreement dated 04th June, 2018 as executed between the Landowners namely Moinul Haque, Shaheena Parveen and Sk, Sajid, son of Late Sk. Salimuddin being the Developer who was entrusted to develop over the schedule mentioned property.

The relevant pages of said Development Agreement dated 04th June, 2018 is annexed hereto and marked with the letter 'R-1' to this affidavit.

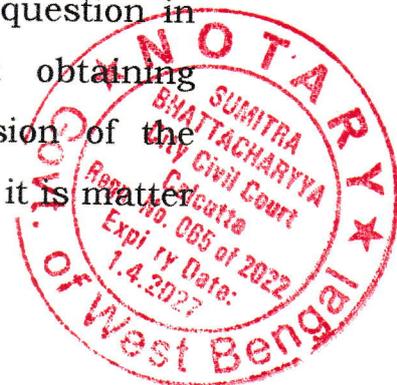
6. It is stated that the said Landowners and Developer namely Sk Sajid is the necessary parties in the instant Original application for adjudication of the instant application.
7. The private respondents most respectfully submits that they are contractors who were authorized to make construction and/or develop over the said schedule mentioned land and therefore allegations which are levelled against them are not maintainable and which can only adjudicated if the Developer and the land owners be added as party to this proceedings. Accordingly the said respondent no. 7 and 8 made prayer before the Block Land



& Land Reforms Officer, Domjur, Howrah to relieve them from the allegations.

Copy of the said letter dated 21.01.2025 is annexed hereto and marked with the letter 'R-2' to this affidavit.

8. It is further stated that the instant original application is not maintainable before this Hon'ble Tribunal as unauthorized construction and/or not leaving side space in contravention of building rules is outside the purview of adjudication of the Hon'ble National Green Tribunal. For which the applicant is required to approach before the proper forum for redressal. It is evident from the affidavit filed by the respondent no. 2 which is obtained from the official portal of the Hon'ble Tribunal that plots in question being LR Plot no. 3065 corresponding to erstwhile RS Plot no. 3063 is classified as Bastu/Shali. Therefore the allegation regarding filling up of water bodies by the answering respondents has no legal foundation. It is matter of record that there had never been any pond in that location since the onset of revisional settlement land surveys in West Bengal.
9. It is respectfully submitted that the core foundation of complaint in the letter petition of the applicant is filling up of water bodies and thereafter construction of illegal building over the said filled plot of land which is the subject matter of land in question in violation of building rules as well as without obtaining sanctioned building plan. It is respectful submission of the answering respondents that with regard to first issue it is matter



of record that the schedule mentioned land in letter petition is Bastu land from the very inception, therefore illegal filling of water body does not arise and with regard to second issue it is respectfully submitted that the same is outside the purview of National Green Tribunal Act, 2010. Accordingly the private respondents praying for dismissal of the instant original application and the private respondents being the Contractor as well as supplier of labours be discharged from the instant proceeding.

10. That the instant case has been filed is absolutely false, frivolous and vexatious and is liable to be dismissed with costs.

11. That it is therefore humbly prayed that Hon'ble Tribunal may pass such order/orders as it deems fit and proper for the ends of justice.

Identified by me

Kaishmeshu Bera

Advocate

Encl. No. F/1864/2010

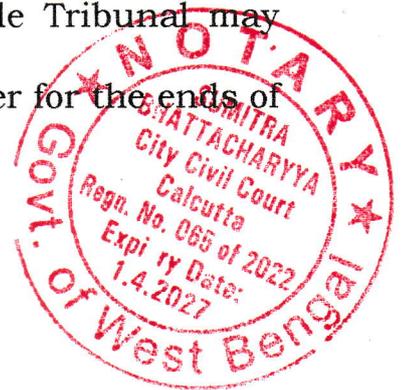
Md. Shamsher
Deponent

Solemnly Affirmed and
Declared before me
U/S 139 CPC (C)

Notary

Sumitra Bhattacharyya

Sumitra Bhattacharyya
Notary, Govt. of W.B.
Regd. No. 065 of 2022
City Civil Court, Calcutta



VERIFICATION

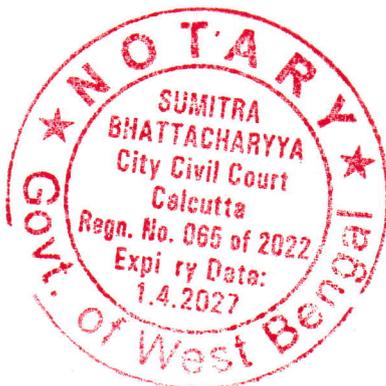
I, Md. Samser, Son of Md. Satta, the deponent within named state that this affidavit is verified at Kolkata by the deponent above named on this the ... day of March, 2025 and say that the contents of this affidavit made in paragraph nos. 1 to 8 are true to my knowledge and rest are my respectful submission before this Hon'ble Tribunal.

Identified by me

Krishmendu Bera

Advocate

Md. Shamsher
Deponent



~~28~~
Sabil Sinha Roy
L.B.
NOTARY PUBLIC
REGD. NO. 9 OF 94
HOWRAH WEST BENGAL

Annexure-R1
Place -
BHATTANAGAR
Liluah, Howrah
&
HOWRAH COURT

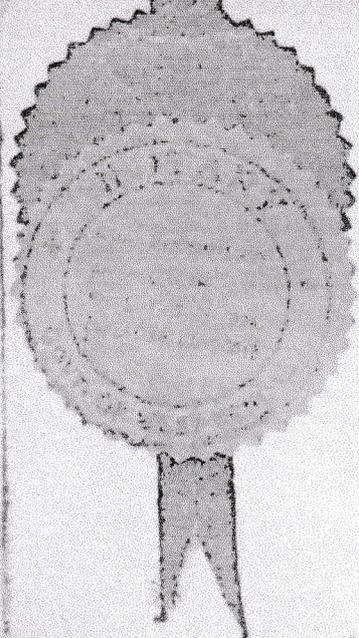
8

Ref No FID/2018

Date 04 JUN 2018

Notarial Certificate

PURSUANT TO SEC. 8 OF THE NOTARIES ACT, (53 1952) &
SUBORDINATE LEGISLATION THERE UNDER GOVT OF INDIA
MINISTRY OF LAW AND JUSTICE

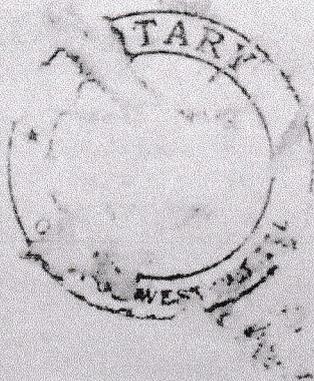


TO ALL TO WHOM THESE PRESENTS shall come I, SABIL SINHA ROY, duly appointed by the Governor of W. Bengal to practice as NOTARY PUBLIC do hereby verify authenticate, certify, attest as under the execution of the instrument annexed, here unto collectively marked "A" as its being executed and admitted and identified by the respective signatories as to the matters contained therein present before me by the *executed by His / Her / Their Ld Lawyer and/ or His / Her / their representative Sri / Smt. Sr. Mahomedul Haque

Accordingly, this is to certify, authenticate and attest that the annexed instrument "A" is the affidavit / Partnership deed / Dissolution of Partnership deed / power of attorney / Revocation of power agreement / cancellation of agreement / Will / declaration / bond / xerox copy / sponsorship / executed on 04.06.18 by Sr/Smt Mahomedul Haque & others. Prima facie the annexed instrument "A" appears to be in the usual procedure to serve and avail as need for occasions shall or may require for the same and it contains 1 to 06 pages.

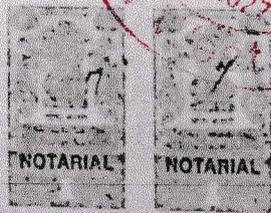
IN FAITH AND TESTIMONY WHERE OF being required by NOTARY, I, the said notary do hereby subscribe my hand and affix my seal of office at HOWRAH on this the 04 day of June in the year 2018

*Signature (s) I. T. I. (s)



S. SINHA ROY
NOTARY PUBLIC
SABIL SINHA ROY

NOTARIAL STAMP
Affixed / Notarized

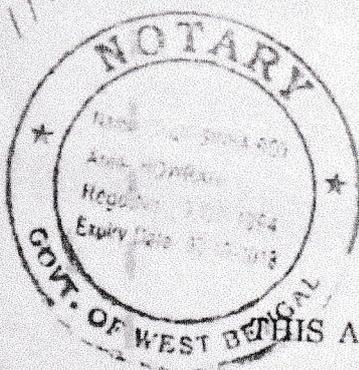




পশ্চিমবঙ্গ পশ্চিম বঙ্গাল WEST BENGAL

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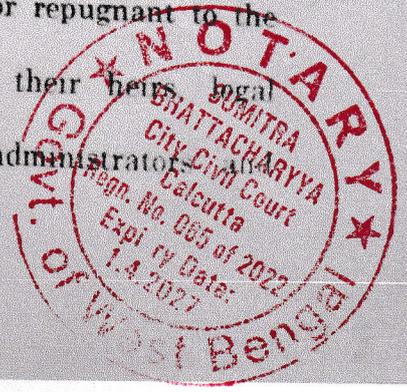
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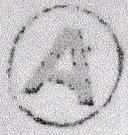


DEVELOPMENT AGREEMENT

THIS AGREEMENT FOR DEVELOPMENT is made on 14th day of February, 2018 BETWEEN 1) MOINUL HAQUE, son of Late Ainul Haque, 2) SHAHEENA PARVEEN, wife of Moinul Haque, both by faith Islam, by occupation Business and Household duties respectively, both residing at 46, Pilkhana 1st Bye Lane, P.S. Golabari, Dist - Howrah 711101, hereinafter referred to and called the parties of the **FIRST PART/ LANDLORD** (which expression unless excluded by or repugnant to the context herein shall be deemed to be included their heirs, legal representatives, successors-in-interest, executors, administrators, assignees) of the **ONE PART**.

04 JUN 2018





AND

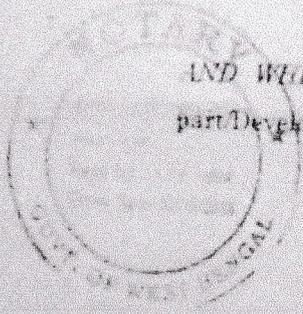
SK SAJID, son of Late Sk Salimuddin, by faith Islam, by occupation Business, residing at Vill - Bankra Benuban, Post - bankra, P.S. Domjur, Dist - Howrah - 711403, hereinafter referred to and called the party of the SECOND PART DEVELOPER (which expression unless excluded by or repugnant to the context herein shall be deemed to be included his heirs, legal representatives, successors in interest, executors, administrators and assigns) of the OTHER PART

WHEREAS the parties of the first part are the joint owners and occupiers in respect of the Bastu landed property measuring more or less 05 (Five) katha together with all right of easement and appurtenants attached thereto comprised in Sabek Dag No. 3063, appertaining to R.S. Khatian No. 423 of Mouza - Bankra, J.L. No. 55, P.S. Domjur, Dist - Howrah specifically mentioned to the schedule hereunder by way of purchase vide deed of sale dated 28.03.1985 from one Abdul Rouf Piyada.

AND WHEREAS the First parties/owners desirous and intended to get a multi-storied building to be constructed on their property mentioned in the schedule herein below but failed to do so due to lack of experience in raising Masonry building as well as paucity of funds and as such proposed to complete the scheme by appointing a Developer who can undertake to complete the same on certain terms and conditions as would be agreed by and between them.

AND WHEREAS the second part above named is a renowned Developer having been experienced in Building Construction and have also capacity to provide finance

AND WHEREAS the First parties/owners jointly approached the Second part Developer with a proposal for construction of multi - storied building in

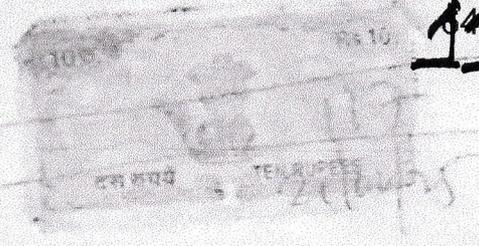


04 JUN 2019



- ২৪ -

মাননীয় বি.এল. শ্রী শ্রী এল.আর.ও.
ডোহডুডু বি.এল. শ্রী শ্রী এল.আর.ও. দপ্তর
ডোহডুডু - শাঁকড়া



২১/০১/২৫ ২১/০১/২৫
S.K. Mondal R.O.

স্বীকার/স্বীকৃতি বিষয়: "ডোহডুডু কড়া আভিযোগ"

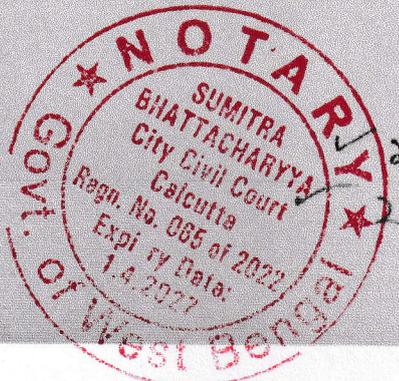
মহাশয়, আপনাদের নিজস্ব আচরণের বিষয়ে অনুরোধ করা
হয়, ডোহডুডু দুই জন ব্যক্তি মধ্যকার মতামত কালক্রমে
পিতা-মহাম্মদ হামিদুল হক ও মহাম্মদ হামিদুল হক, পিতা-
মহাম্মদ হামিদুল হক, মাতা - শাঁকড়া, ডোহডুডু, শাঁকড়া,

শাঁকড়া মোড়ায় বসবাসকারী কালে ডোহডুডু
কালক্রমে বাস্তব পরিস্থিতি স্থানে যে বিল্ডিং তৈরী
করা হলে যে সেখানে ডোহডুডু ডোহডুডু
সিদ্ধান্ত হিসাবে নিশ্চিত। মোহাম্মদের বাস্তব পরিস্থিতি
কোনটিই ডোহডুডু নই, প্রকৃতপক্ষে ডোহডুডু
মোহাম্মদ হামিদুল হক, পিতা - মোহাম্মদ হামিদুল হক, মাতা -
শাঁকড়া হামিদুল হক, ডোহডুডু শাঁকড়া।

Seen
21.01.25

অনুরোধ করা ডোহডুডু কড়া আভিযোগ
মোট ডোহডুডু নিশ্চিত দিলে উল্লিখিত হয়, প্রমাণ
স্বীকার/স্বীকৃতি প্রকৃত ডোহডুডু মতামত দিলে,

৩৫ - ২১/০১/২০২৫
৯১৬৩১৫৬৩৯০



স্বাক্ষরিত
Md. Shamsher
Md. Kalam

27A.

Translated copy

12

Respected Block Land and Land Reforms officer,

Domjur; O/O the BL&LRO.

Domjur-Howrah

Sub: Complaint done by mistake

Sir,

This is our humble request to you that we are (i) Md. Kalam S/O Md. Islam (ii) Md. Samser S/O Md. Sattar both of Vill: Bankra, domjur, Howrah. We are engaged only as the contractors in the building which under construction at 28 room near Rasikal under Bankra mouza. We are neither promoter nor landlord. The real developer of project is SK.Sajid S/O SK. Salimuddin Of Vill: Bankra, Benuban, Domjur, Howrah. Kindly Excuse us from the allegation made against us thus of life. In support of are claim attached the contract agreement of real developer.

Date-29/1/25

Ph Np. 9163146390

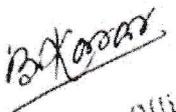
Yours faithfully

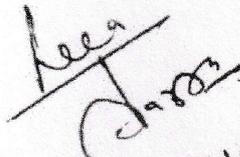
Sd-

(1)Md.Shamshar

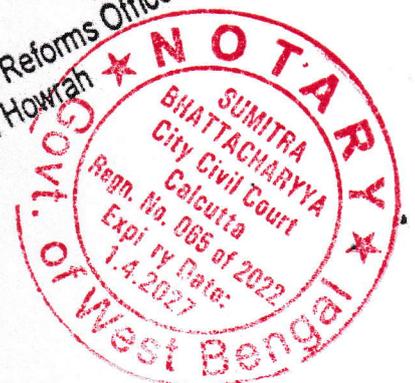
(2) Md. Kalam

Authenticated English translation of Bengali deposition of Md Samser and Md Kalam.


Revenue Officer
Office of the Block Land & Land Reforms Officer
Domjur, Howrah



Block Land & Land Reforms Officer
Domjur, Howrah



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KRISHNENDU BERA
Advocate, High Court, Calcutta
Email : krishnendubera87@gmail.com
9804470595 (M)