

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

O. A. No. 84 of 2020/EZ

In the matter of :

Rajjak Seikh & Ors.

... Applicants

-vs-

West Bengal Pollution Control Board & Ors.

... Respondents

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1.	Affidavit in reply on behalf of the Respondent No. 15 against counter affidavit filed on behalf of the Respondent No. 7.	1 to 7
2.	Photocopy of application for conversion and/or alteration and/or correction of the land in question from "Aush" to "Itkhola" before the concerned authority on 25.09.2021 annexed with the reply and marked as Annexure 'A'.	8 to 11
3.	Photocopies of the said notice dated 04.08.2022 is annexed hereto and marked as "Annexure B".	12 to 14
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5.	Photocopy of the report dated 02.02.2025 is annexed hereto and marked as "Annexure D"	18

Place: Kolkata

Date: 01.04.2025

Drafted & Filed by

Subir Debnath

Advocate

WB/913/2000

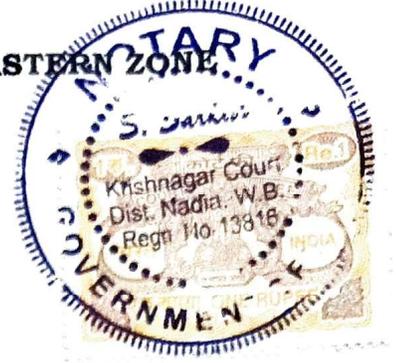
High Court, Calcutta

Bar Association Room No. 5

Mobile: 82404 64153



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



O. A. No. 84 of 2020/EZ

In the matter of :

Rajjak Seikh & Ors.

.....Applicant

VS

West Bengal Pollution Control Board & Ors.

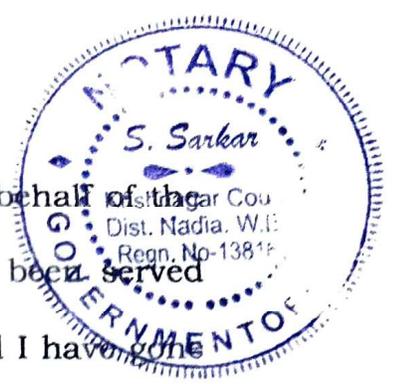
.....Respondents

AFFIDAVIT IN REPLY ON BEHALF OF THE RESPONDENT NO. 15
AGAINST COUNTER AFFIDAVIT FILED ON BEHALF OF THE
RESPONDENT NO. 7.

I, Majit Sekh @ Monthali Mondal, son of Dayla Sekh, aged about 45 years, by faith: Muslim, by nationality: Indian, by occupation: Business, residing at Village- Jhitkipota, Post Office- Dalimolla, Police Station -Dhubulia, District – Nadia, Pin – 741140, do hereby solemnly affirm and sincerely state as follows:

1. That I am one of the owners of the brickfield namely “Rupa Brick Field (Rose) comprised in Dag Nos. -130, 132, 152, 104, 134 & 136 at Mouza – 30 Uttar Jhitkipota, Police Station – Dhubulia, within the jurisdiction of District Nadia. I am also well acquainted with the fact and I am duly competent to make sign and affirm the instant affidavit on behalf of the said Brick Field.

2. That a copy of the Counter Affidavit dated 23.08.2021, on behalf of the Respondent No. 7 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.



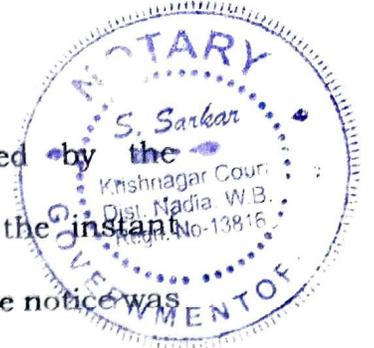
3. Before dealing with the various allegations and/or statements made in the different paragraphs of the said affidavit, I submit that the said affidavit contains many incorrect allegations and/or statements which have been deliberately made only to mislead this Hon'ble Tribunal. I reserve my right to make further submissions on the issue at the time of hearing, if necessary.

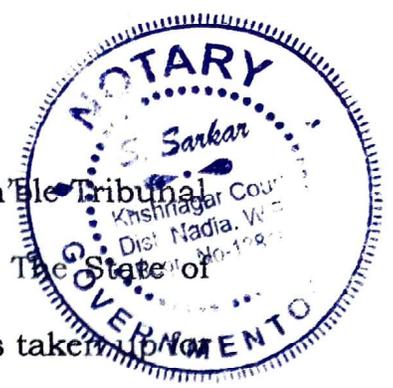
4. Before dealing with the various allegations and/or statements and/or averments contained in the said petition, it is respectfully submitted as follows:

- a) The said Brick Field has been established in the year 2020 and obtained all permissions like trade license and no-objection certificate from the local authorities for operating the said unit of brickfield.
- b) It is stated that the said brickfield was not in operation due to covid pandemic and the owners of the said brickfield were unable to submit application before the West Bengal Pollution Control Board for granting and/or issuing the Certificate of "Consent to Establish" and "Consent to Operate" in the name of the said brickfield. In the

meantime, suddenly, an inspection was conducted by the Committee, established by the Hon'ble Tribunal in the instant matter, in the said brickfield on 24.03.2021 and a closure notice was issued by the Additional District Magistrate on same date i.e. 24.03.2021 upon the said brick field without any opportunity of hearing to the said brickfield. It is a blatant violation of natural justice. Accordingly, the said brickfield was not in operation on and from 24.03.2021 to till date. It is pertinent to mention that the owners of the said brick field had no knowledge about the said original application on that date.

- c) It is stated that said brickfield falls under Category 'D' and for recognition under the said category the said brick field has to pay Rs. 1.5 lakhs. The said amount has to be deposited before Environmental Engineer and accordingly the said brick field prepared a demand draft dated 06.04.2021 of Rs.1.5 lakhs and visited the office of 'Environmental Engineer' to deposit the said amount but for the reasons best known to him refused to accept the amount with stating any reasons. Thereafter, applicant made a written representation on 09.04.2021 before the concerned authorities of West Bengal Pollution Control Board. The said representation was not even considered.
- d) It is stated that being aggrieved by the inaction of the respondent authorities filed an original application along with other

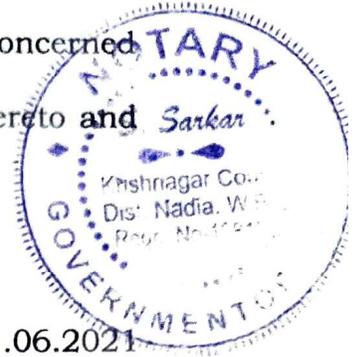




owners/partners of the said brickfield before This Hon'ble Tribunal being O.A. 41/2021/EZ [Rupa Brick Field (Rose) Vs The State of West Bengal & Ors.]. The said original application was taken up for hearing on 11.06.2021 and after hearing for the Learned counsel for the parties, the Hon'ble Tribunal was pleased to dispose of the original application directing inter alia the applicant to file a copy of the representation dated 09.04.2021 and a certified of order dated 11.06.2021 before the Chairman, West Bengal Pollution Control Board, being Respondent No. 3. Upon receipt of the certified copy of the said order along with the applicant's representation dated 09.04.2021, the Chairman, West Bengal Pollution Control Board or any other officer duly authorized by him shall consider and decide the representation in accordance with law within a period of one month from the date of receipt of certified copy of our order.

- e) It is stated that thereafter, the said brickfield made an application for conversion and/or alteration and/or correction of the land in question from "Aush" to "Itkhola" before the concerned authority on 25.09.2021. Photocopy of the said application is annexed hereto and marked as "Annexure A".
- f) It is stated that after receiving the aforesaid application, the concerned authority, by way of a letter dated 04.08.2022, intimated the said brick field to appear before the concerned authority with requisite documents for the purpose of correction and/or conversion

and/or alteration the land in question on 16.08.2022. The owners of ^{Rupa} the said brick field were duly appeared before the concerned authority. Photocopies of the said notices are annexed hereto and ^{Sarkar} marked as "Annexure B".



- g) It is also stated that in terms of the Order dated 11.06.2021 passed by the Hon'ble Tribunal in the Original Application being O.A. 41/2021/EZ [Rupa Brick Field (Rose) Vs The State of West Bengal & Ors.], West Bengal Pollution Control Board passed an order on 28.04.2022 thereby rejecting the application dated 09.04.2021 and directing the said brickfield to comply the order dated 02.08.2021 passed by the West Bengal Pollution Control Board. Photocopy of the said order dated 28.04.2022 is annexed hereto and marked as "Annexure C".
- h) It is submitted that in the aforesaid order, it was revealed that it was wrongly observed by the West Bengal Pollution Control Board that the said brick field has been violated the locational guideline issued by the Land and Land Reforms Department, Government of West Bengal. I state that the said brick field has not violated the said guidelines in any manner whatsoever. I have obtained a report from the Surveyor, Dhubulia Jhitkipota, Nadia thereby revealing that the said brick field is situated away from 1060 meters from the Dhubulia Primary School and 1363 meters away from Debipur Jama Masjid.

6.

Photocopy of the said report dated 02.02.2025 is annexed hereto and marked as "Annexure D".



5. 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.
6. With regard to the statements made in paragraph nos. 1 to 6 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.
7. With regard to the statements made in paragraph nos. 7 to 15 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. The owners of the said brick field made an application u/s 4C read with 50(1)f of WBLR Act, 1955 before the B.L.& L.R.O, Rajarhat on 25.09.2021 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 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, Nadia cannot be initiated any proceeding under Section 4C(5) of the West Bengal Land Reforms Act, 1955 against the said respondents.



8. Save and except matters of record and save what has been stated hereinbefore I do not admit any statement, averment, confession, submission as made/raised in the said affidavit as if the same are expressly denied by me in seriatim and specifically traversed.

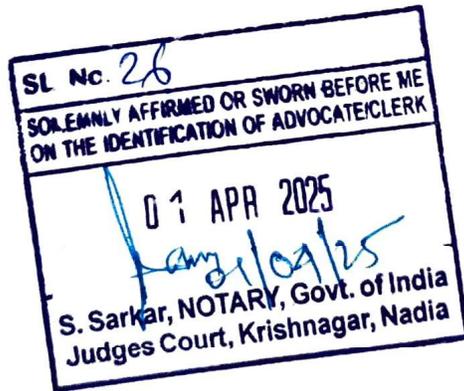
9. That the statements made in paragraphs nos. 1 and 2 are true to my knowledge and belief and the statements made in paragraph no. 4 is derived from records and rest are my humble submission before this Hon'ble Tribunal.

Identified by me -

Masit Sekh @ monthak Mondal

[Signature]
Advocate

DEPONENT



- 8 -

"ANNEXURE - A"



Land & Land Reforms And Refugee Relief & Rehabilitation Department

FORM 1A

Application for change of character, conversion or alteration in the mode of use land
(See sub-rule (1) of rule 5A)

Application No : CONV2021131000101

Application Date : 25/09/2021

From : SAHIN SHAIKH
DEBIPUR DHUBULIA NADIA 741140
To : The District Land & Land Reforms Officer/
The Sub-divisional Land & Land Reforms Officer/
The Block Land & Land Reforms Officer.

Sub. Application for permission for change of character, conversion or alteration in the mode of use of land.

Sir,

I / We have the honour to apply for permission for change of character, conversion or alteration in the mode of use of the land having water body for the purpose of Industrial and commercial use

2. The particulars of the land / land having water body with respect to which such permission is required is furnished below:-

- | | |
|---|---------------------|
| (1) Name of the District | : NADIA |
| (2) Name of the Block | : KRISHNANAGAR - II |
| (3) Name of the police station | : |
| (4) Name of the mouza | : Uttar Jhitkipota |
| (5) Jurisdiction List No. | : 030 |
| (6) Khatian No. (R.S & L.R) | : 522 |
| (7) Plot No. (R.S & L.R) | : 133 |
| (8) Area of the Plot (R.S & L.R) [If part plot, specify the area and portion] | : 0.79 acre |
| (9) Existing classification of the Plot | : Aush |

3. The following documents, in duplicate, are enclosed with this application:-

4. I / We also declare and undertake -

1. That the land, in question shall be used strictly for the purpose for which such permission shall be granted;
2. That there is no bargadar, in the land, in question;
3. That no work shall be done on the land, in question that may lead to conversion of the same unless permission as sought for is granted;



4. That necessary approval or permission or licence shall be obtained from the appropriate authority as required for execution of the work on the land, in question as soon as permission for conversion as sought for is granted;

5. I / We further declare -

1. That the land , in question is under peaceful possession of myself / ourselves and it is free from all encumbrances;

2. That the land, in question is not involved in any proceeding for vesting under the provisions of any law;

3. That the land , in question is not involved in any court case which prohibits such conversion , change or alteration in the mode of use of the land.

6. I / We also declare and undertake that in case it is proved at any point of time that the documents furnished and statements made hereinabove are not true and correct, I / We am / are liable for any legal action which will be taken by the competent authority in this regard including cancellation of order granting change of character, conversion or alteration in the mode of use of land as sought for.

Encl. As stated above

Yours faithfully,

Place :

Date :

(Full signature of the applicants(s) with seal, if any.)



- 11 -

ভূমি সংস্কার আইনের ৫৬, ৫৭ ধারায় প্রদত্ত ক্ষমতা বলে
জমির শ্রেণী পরিবর্তন
তদন্ত -এর নোটিশ

কেস নং- CN/2021/1310/75

কেস তারিখ- ২৮/০৯/২০২১

বাদী

নাম

পিতা/স্বামীর নাম

ঠিকানা

সাহিন সেখ

পিতা-বাহার আলি

বিবাদী

এতদ্বারা জানানো যাইতেছে যে, 28/09/2021 তারিখের আবেদনের ভিত্তিতে উত্তর ঝিটকীপোতা মৌজার নিম্ন তপশীল বর্ণিত দাগের সরেজমিন তদন্ত গ্রহণ করা হইবে। আপনাকে আপনার বক্তব্যের সমর্থনে যাবতীয় তথ্য প্রমানাদি সহ 03/12/2021 তারিখে বেলা 11 টার সময় তদন্ত স্থলে উপস্থিত থাকিতে আদেশ দেওয়া যাইতেছে। অন্যথায় আইন মোতাবেক ব্যবস্থা গ্রহণ করা হইবে।

তপশীল

মৌজা - উত্তর ঝিটকীপোতা

জে.এন নং - 030

দাগ নং

খতিয়ান নং

অংশ

অংশ পরিমান (এ)

১৩৩

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০.৭৯০০

তারিখ- ২৬/১১/২০২১

রক- কৃষ্ণনগর-২

জেলা- নদীয়া

কালেক্টর

প: ব: ভূমি সংস্কার 1955 আইনের 4C ধারা মতে
মহকুমা ভূমি ও ভূমি সংস্কার আধিকারিকের করণ



Powers given in Sections 56, 57 of the Land Reforms Act
Change of land class
Notice of Inquiry

Case No- CN/2021/1310/75

Case Date- 28/09/2021

Plaintiff

<u>Name</u>	<u>Name of father/husband</u>	<u>Address</u>
Sahin Sekh	son of Bahar Ali	

Defendant

It is hereby notified that on the basis of the application dated 28/09/2021, on-site investigation of the spot mentioned in the schedule hereunder written bellow of North Jhitkipota Mauza will be taken up. At 11am on 03/12/2021 with all information and evidence in support of your statement. At that time the order has been given to open the door and be present. Actions will be taken as per the law elsewhere.

Schedule

Mouza – North Jhitkipota			J.N. No. 030
<u>Dag no</u>	<u>Khatian no</u>	<u>Share</u>	<u>Portion of measurement(A)</u>
133	522	10000	0.7900

Date- 26/11/2021

Collector

Block- Krishnagar-2

As per Section 4C of the Land Reforms Act, 1955

District- Nadia

Sub-divisional Land and Land Reforms Officer



- 12 - "ANNEXURE-B"

ভূমি সংস্কার আইনের ৫৬, ৫৭ ধারায় প্রদত্ত ক্ষমতা বলে

জমির শ্রেণী পরিবর্তন

তদন্ত -এর নোটিশ

কেস নং- CN/2022/1310/120

কেস তারিখ- ০৪/০৮/২০২২

শ্রী

নাম

পিতা/স্বামীর নাম

ঠিকানা

সাহিন সেক

পিতা-বাহার আলি

বিবাদী

এতদ্বারা জানানো যাইতেছে যে, ০৪/০৮/২০২২ তারিখের আবেদনের ভিত্তিতে উত্তর ঝিটকীপোতা নৌজার নিম্ন তপশীল বর্ণিত দাগের সবেজমিন তদন্ত গ্রহণ করা হইবে। আপনাকে আপনার বক্তব্যের সমর্থনে যাবতীয় তথ্য প্রমাণাদি সহ ১৬/০৮/২০২২ তারিখে বেলা ১০.০০ টার সময় তদন্ত স্থলে উপস্থিত থাকিতে আদেশ দেওয়া যাইতেছে। অন্যথায় আইন মোতাবেক ব্যবস্থা গ্রহণ করা হইবে।

তপশীল

নৌজা - উত্তর ঝিটকীপোতা

জে.এল নং - ০৩০

দাগ নং

খতিয়ান নং

অংশ

অংশ পরিমাণ (এ)

১৩৫

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০.১০০০

তারিখ- ০৮/০৮/২০২২

কালেক্টর

রক- কুসনগর-২

স: ব: ভূমি সংস্কার ১৯৫৫ আইনের ৪৮ ধারা মতে

জেলা- নদীয়া



Powers given in Sections 56, 57 of the Land Reforms Act
Change of land class
Notice of Inquiry

Case No- CN/2022/1310/120

Case Date- 04/08/2021

Plaintiff

<u>Name</u>	<u>Name of father/husband</u>	<u>Address</u>
Sahin Sekh	son of Bahar Ali	

Defendant

It is hereby notified that on the basis of the application dated 04/08/2022, on-site investigation of the spot mentioned in the schedule hereunder written bellow of North Jhitkipota Mauza will be taken up. At 10am on 16/08/2022 with all information and evidence in support of your statement. At that time the order has been given to open the door and be present. Actions will be taken as per the law elsewhere.

Schedule

Mouza – North Jhitkipota			J.N. No. 030
<u>Dag no</u>	<u>Khatian no</u>	<u>Share</u>	<u>Portion of measurement(A)</u>
133	522	1265	0.1000

Date- 08/08/2022

Collector

Block- Krishnagar-2

As per Section 4C of the Land Reforms Act, 1955

District- Nadia

Sub-divisional Land and Land Reforms Officer



-13-

ভূমি সংস্কার আইনের ৫৬, ৫৭ ধারায় প্রদত্ত ক্ষমতা বলে

জমির প্রকৌশল পরিমাপ

তদন্ত -এর নোটিশ

কেস নং- CN/2022/1310/128

কেস তারিখ- ০৫/০৮/২০২২

বাদী

নাম

পিতা/স্বামীর নাম

ঠিকানা

মামলিন মেম্ব

পিতা-বাহার আলি

বিবাদী

এতদ্বারা জানানো যাইতেছে যে, 05/08/2022 তারিখের আবেদনের ভিত্তিতে উত্তর ঝিটকীপোতা মৌজার নিম্ন তপশীল বর্ণিত দাগের সরেজমিন তদন্ত গ্রহণ করা হইবে। আপনাকে আপনার বক্তব্যের সমর্থনে যাবতীয় তথ্য প্রমানাদি সহ 16/08/2022 তারিখে বেলা 11.00 টার সময় তদন্ত স্থলে উপস্থিত থাকিতে আদেশ দেওয়া যাইতেছে। অন্যথায় আইন মোতাবেক ব্যবস্থা গ্রহণ করা হইবে।

তপশীল

মৌজা - উত্তর ঝিটকীপোতা

জে.এল নং - 030

দাগ নং

খতিয়ান নং

অংশ

অংশ পরিমান (এ)

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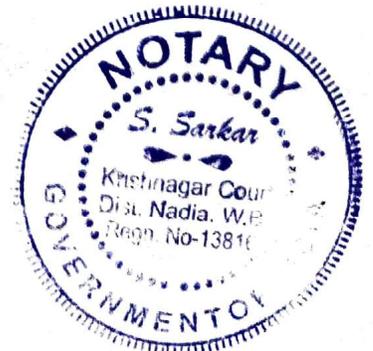
তারিখ- ০৮/০৮/২০২২

কালেক্টর

ব্লক- কৃষ্ণনগর-২

প: ব: ভূমি সংস্কার 1955 আইনের 4C ধারা মতে

জেলা- নদীয়া



Powers given in Sections 56, 57 of the Land Reforms Act
Change of land class
Notice of Inquiry

Case No- CN/2022/1310/128

Case Date- 05/08/2022

Plaintiff

<u>Name</u>	<u>Name of father/husband</u>	<u>Address</u>
Sahin Sekh	son of Bahar Ali	

Defendant

It is hereby notified that on the basis of the application dated 05/08/2022, on-site investigation of the spot mentioned in the schedule hereunder written bellow of North Jhitkipota Mauza will be taken up. At 11am on 16/08/2022 with all information and evidence in support of your statement. At that time the order has been given to open the door and be present. Actions will be taken as per the law elsewhere.

Schedule

Mouza – North Jhitkipota	J.N. No. 030		
<u>Dag no</u>	<u>Khatian no</u>	<u>Share</u>	<u>Portion of measurement(A)</u>
133	522	1265	0.1000

Date- 08/08/2022

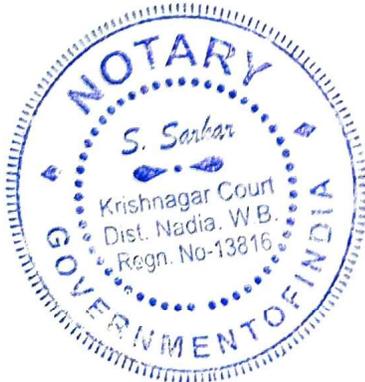
Collector

Block- Krishnagar-2

As per Section 4C of the Land Reforms Act, 1955

District- Nadia

Sub-divisional Land and Land Reforms Officer



- 14 -

ভূমি সংস্কার আইনের ৫৬, ৫৭ ধারায় প্রদত্ত ক্ষমতা বলে
জমির শ্রেণী পরিবর্তন
তদন্ত -এর নোটিশ

কেস নং- CN/2022/1310/130

কেস তারিখ- ০৬/০৮/২০২২

বাদী

নাম

সাহিন মেম

পিতা/স্বামীর নাম

পিতা-বাহার আলি

ঠিকানা

বিবাদী

এতদ্বারা জানানো যাইতেছে যে, 06/08/2022 তারিখের আবেদনের ভিত্তিতে উত্তর খিটকীপোতা মৌজার নিম্ন তপশীল বর্ণিত দাগের সরেজমিন তদন্ত গ্রহণ করা হইবে। আপনাকে আপনার বক্তব্যের সমর্থনে যাবতীয় তথ্য প্রমাণাদি সহ 16/08/2022 তারিখে বেলা 12.00 টার সময় তদন্ত স্থলে উপস্থিত থাকিতে আদেশ দেওয়া যাইতেছে। অন্যথায় আইন মোতাবেক ব্যবস্থা গ্রহণ করা হইবে।

তপশীল

মৌজা - উত্তর খিটকীপোতা

জে.এল নং - 030

দাগ নং

খতিয়ান নং

অংশ

অংশ পরিমাণ (এ)

১৩৩

৫২২

১২৬৫

০.১০০০

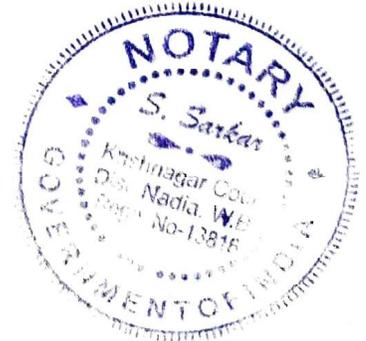
তারিখ- ০৮/০৮/২০২২

রক- কৃষ্ণনগর-২

জেলা- নদীয়া

কানেক্টর

পঃ বঃ ভূমি সংস্কার 1955 আইনের 4C ধারা নতে



Powers given in Sections 56, 57 of the Land Reforms Act
Change of land class
Notice of Inquiry

Case No- CN/2022/1310/130

Case Date- 06/08/2022

Plaintiff

<u>Name</u>	<u>Name of father/husband</u>	<u>Address</u>
Mahin Sekh	son of Bahar Ali	

Defendant

It is hereby notified that on the basis of the application dated 06/08/2022, on-site investigation of the spot mentioned in the schedule hereunder written bellow of North Jhitkipota Mauza will be taken up. At 12am on 16/08/2022 with all information and evidence in support of your statement. At that time the order has been given to open the door and be present. Actions will be taken as per the law elsewhere.

Schedule

Mouza – North Jhitkipota			J.N. No. 030
<u>Dag no</u>	<u>Khatian no</u>	<u>Share</u>	<u>Portion of measurement(A)</u>
133	522	1265	0.1000

Date- 08/08/2022

Collector

Block- Krishnagar-2

As per Section 4C of the Land Reforms Act, 1955

District- Nadia

Sub-divisional Land and Land Reforms Officer





"ANNEXURE - c"

- 15 -

West Bengal Pollution Control Board
(Department of Environment, Government of West Bengal)
Paribesh Bhawan, Bldg. 10A, Block LA
Sector III, Salt Lake, Kolkata 700 106
Tel: 2335-6730, 2335-9088/7428/8211/6731/0261/8861
Fax: 2335-2813

Memo No.

-1M-11/2009 (Pt.-IV)

Date: 04/2022

RECORD OF PROCEEDINGS OF THE HEARING HELD ON 22/03/2022 BETWEEN BOARD OFFICIALS AND OFFICIALS OF M/S. RUPA BRICK FIELD (ROSE), VILL - UTTAR JHITKIPOTA, P.O. - DOLI MOILA, P.S. - DHUBULIA, DIST.- NADIA, PIN - 741140 AT PARIBESH BHAWAN, BIDHANNAGAR, KOLKATA - 700 106

PRESENT ON BEHALF OF WBPCB	PRESENT ON BEHALF OF M/S. RUPA BRICK FIELD (ROSE)
1. Shri Subrata Ghosh, Chief Engineer	1. Shri Sahin Sk., Proprietor / Partner
2. Shri D. Sarkar, Chief Engineer	2. Shri Subir Debnath, Advocate
3. Shri Amar Nath Goswami, Sr. Law Officer	3. Shri Pappu Adhikari, Advocate
4. Shri Q.Q. Hassan, EE, O&E Cell	

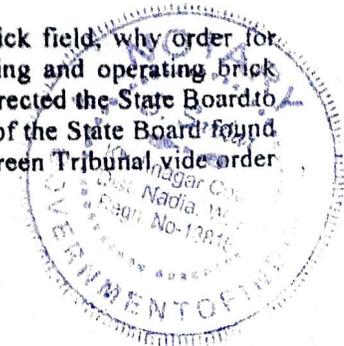
In connection with O.A No. 41/2021/EZ, M/s. Rupa Brick Field (Rose) -Vs- State of West Bengal. Hon'ble National Green Tribunal (NGT), Eastern Zone Bench vide order dated 11.06.2021 directed the applicant to file a copy of his representation dated 09.04.2021 and a certified copy of the order before the Chairman, West Bengal Pollution Control Board. Chairman or any other officer duly authorized by him shall consider and decide the representation in accordance with law within a period of one month from the date of receipt of certified copy of the order of the Hon'ble Tribunal.

In view of the above, Hon'ble Chairman suggested that State Board should give an opportunity of hearing to M/s. Rupa Brick Field (Rose) and authorise Shri Subrata Ghosh, Chief Engineer of the State Board to decide the representation in accordance with law and issue Record of Proceedings.

Applicant through his advocate Mr. Habibur Rahaman vide memo dated 14.07.2021, submitted the copy of the order of the National Green Tribunal and a copy of the representation dated 09.04.2021 before the Chairman of the West Bengal Pollution Control Board (hereinafter will be referred to as the State Board).

It is pertinent to mention that the M/s. Rupa Brick Field is also a subject matter in another original application being No. 84/2020/EZ which is still pending before the Hon'ble National Green Tribunal, Eastern Zone Bench. In compliance with the directions of the Hon'ble National Green Tribunal passed in O.A. NO. 84/2020/EZ, a Committee was constituted with the representative of WBPCB, SEIAA and District Magistrate. The said Joint Committee inspected the brick field on 24.03.2021 and found that brick field is operating without obtaining environmental clearance, Consent to Establish and Consent to Operate of the State Board. The ADM & DL&LRO, Nadia vide order dated 24.03.2021 issued closure order upon M/s. Rupa Brick Field, since the brick field is operating in an unauthorized manner. BL & LRO, Krishnagar-II, Nadia vide order dated 06.04.2021 directed brick field to restore classification of plot in question in original mode within thirty days, since the character of the plots have been changed without taking permission of the appropriate authority.

State Board vide memo dated 30.04.2021 issued show cause notice to brick field, why order for closure with disconnection of electricity will not be issued for establishing and operating brick field violating environmental norms. On 06.07.2021 Hon'ble NGT again directed the State Board to inspect the brick field and on inspection on 06.07.2021 inspecting official of the State Board found that during inspection brick field was not in operation. Hon'ble National Green Tribunal vide order



dated 02.08.2021 directed the State Government and WBPCB to impose Environmental Compensation and recover the same with restoration of the land. State Board vide memo dated 02.08.2021 issued order for closure with disconnection of electricity upon the brick field since M/s. Rupa Brick Field has established and operating without obtaining Consent to Establish and Consent to Operate of the State Board. ADM & DL & LRO, Nadia vide order dated 19.08.2021 directed the SDO, Sadar, Krishnagar to restore the land to its original condition by 30.08.2021. State Board vide memo dated 07.09.2021 further issued direction upon the brick field for submission of environmental compensation of Rs. 8,75,000/- before the State Board within ten days, by way of Demand Draft.

M/s. Rupa Brick Field filed Civil Appeal being No. 5157 of 2021 before the Hon'ble Supreme Court of India inter alia praying to set aside the judgment dated 02.08.2021 of the Hon'ble National Green Tribunal since appellant got no opportunity of being heard. Hon'ble Supreme Court of India vide order dated 13.09.2021 directed that there shall be stay of the demolition proceedings pursuant to notice dated 19.08.2021 issued by ADM & DL & LRO, Nadia.

Although in compliance with the order dated 11.06.2021 passed in O.A. NO. 41/2021/EZ, applicant/petitioner on 14.07.2021 submitted order of the Hon'ble Tribunal and a copy of their representation dated 09.04.2021, however State Board could not taken up the matter for consideration earlier, since the proceedings as mentioned above were going on. In the representation dated 09.04.2021, petitioner submitted that to run the brick field they have obtained trade license issued by the Executive Officer, Krishnagar to Panchayat Samity and also got NOC from the local Noapara – 1, Gram Panchayat to run the brick field and in order to obtain Consent to Establish and Consent to Operate of the brick field they have visited the office of the Environmental Engineer and prayed for necessary permissions but they received no response. Petitioners further submitted that as per order of the Hon'ble National Green Tribunal they intended to deposit compensation/penalty of Rs. 1,50,000/- but the Environmental Engineer, Barrackpore Regional Office refused to accept the same. Petitioners prayed that penalty charges of Rs. 1.5 lacks may be accepted and necessary consent may be issued.

It appears from the record that earlier Hon'ble National Green Tribunal in connection with some original applications wherein many existing unregularized brick field were made party. Hon'ble NGT have categorized those brick fields into four categories and out of those which initially had Consent to Operate but did not renew those after term expire was categorized "C Category" and those which had operated without obtaining Consent to Operate at all was categorized "D Category". Hon'ble National Green Tribunal also order that "Category D" brick field has to submit penalty of Rs. 1,50,000/- and "Category C" has to submit penalty @ Rs. 1,00,000/-.

The aforementioned order of the Hon'ble National Green Tribunal is not applicable upon M/s Rupa Brick Field since M/s. Rupa Brick Field has come up in the year 2020 i.e. after order of Hon'ble National Green Tribunal dated 10.10.2015 which is clear from the report of joint inspection caused on 24.03.2021. It is relevant to mention here that, Government of West Bengal, Land and Land Reforms Department issued guidelines for operation of new brick field/brick kiln vide memo no. 1251-M&M/LR/A-II/M&M-26/2010 dated 29.05.2015 and a revised guidelines vide memo no. 2649-M&M-26/2010 dated 27.10.2016. It reveals from the said revised guidelines that applications for Consent to Establish and Consent to Operate should be made to the concern District Land and Land Reforms Officer in prescribed format which may be downloaded from the website of the State Board. Duly filled up application may be submitted along with a requisite fee and other relevant document for obtaining permission to establish and/or to operate of brick fields/kilns. It also appears from the locational guidelines that no brick fields/kilns shall be allowed to be set up in the places or areas as mentioned therein. Guidelines dated 27.10.2016 inter alia imposed prohibition upon new brick fields/kilns within a distance of 1.0 kilometer from registered hospitals, schools, public buildings, religious places or places where inflammable substances are stored and within a radial distance of 1.6 kilometers from mango orchards as per the order dated 4th April, 2003 passed by the Hon'ble Supreme Court of India in Civil Appeal No. 2735 of 2003. From the inspection report of the Committee dated 24.03.2021 it reveals that Primary School and

Jama Masjid are within about 600 meters and Mango Orchards are also within 1.6 KM of the brick field which is established in violation of the said locational guidelines.

On the basis of the representation of the unit before the Chairman, WBPCB, an opportunity has been given to the unit through a hearing on 22.03.2022 at the head office of the State Board. During the course of hearing Learned Advocates on behalf of the unit requested the State Board to restore the electricity connection of the unit for security purpose only. Learned Advocates also requested that if the unit will submit a fresh application for NOC/Consent to Operate to the State Board, pending litigations related to the cases of the unit will not consider by the State Board. During the course of hearing, as requested, a copy of the revised guidelines issued by the Govt. of West Bengal regarding the brick kilns has been handed over to the unit.

Considering the above, M/s. Rupa Brick Field (Rose) is hereby directed as follows:

1. That, the representation dated 09.04.2021 submitted by M/s. Rupa Brick Field (Rose) before the Chairman, West Bengal Pollution Control Board is hereby rejected by the State Board.
2. That, the unit shall strictly comply with the order of the State Board issued vide Memo No. 439-377/WPB/O&E/2019 dated 02.08.2021.

Sd.-
(Subrata Ghosh)
Chief Engineer

Sd/-
(D. Sarkar)
Chief Engineer

Sd/-
(A.N. Goswami)
Sr. Law Officer

Sd/-
(Q.Q. Hassan)
EE, O & E Cell

Memo No. 464 (7) - -1M-11/2009 (Pt.-IV)

Date: 28/04/2022

Copy forwarded for information and necessary action to:

1. M/s. Rupa Brick Field (Rose), Vill – Uttar Jhitkipota, P.O. – Doli Moila, P.S. – Dhubulia, Dist.– Nadia, Pin – 741140.
2. T.A. to the Member Secretary, WBPCB
3. P.A. to the Chairman, WBPCB
4. The Chief Engineer, Planning & EIM Cell, WBPCB
5. The Senior Law Officer, WBPCB
6. The Environmental Engineer & In-Charge, Barrackpore Regional Office, WBPCB
7. Technical Cell, WBPCB for updating the website.
8. Environment Officer- Communication, WBPCB – for circulation through float file.
9. Guard file of O & E Cell


Chief Engineer
Operation & Execution Cell
West Bengal Pollution Control Board



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KARUNAMOY BISWAS "ANNEXURE-D"

Surveyor

W.B.S.C.V.T No.-6270/08

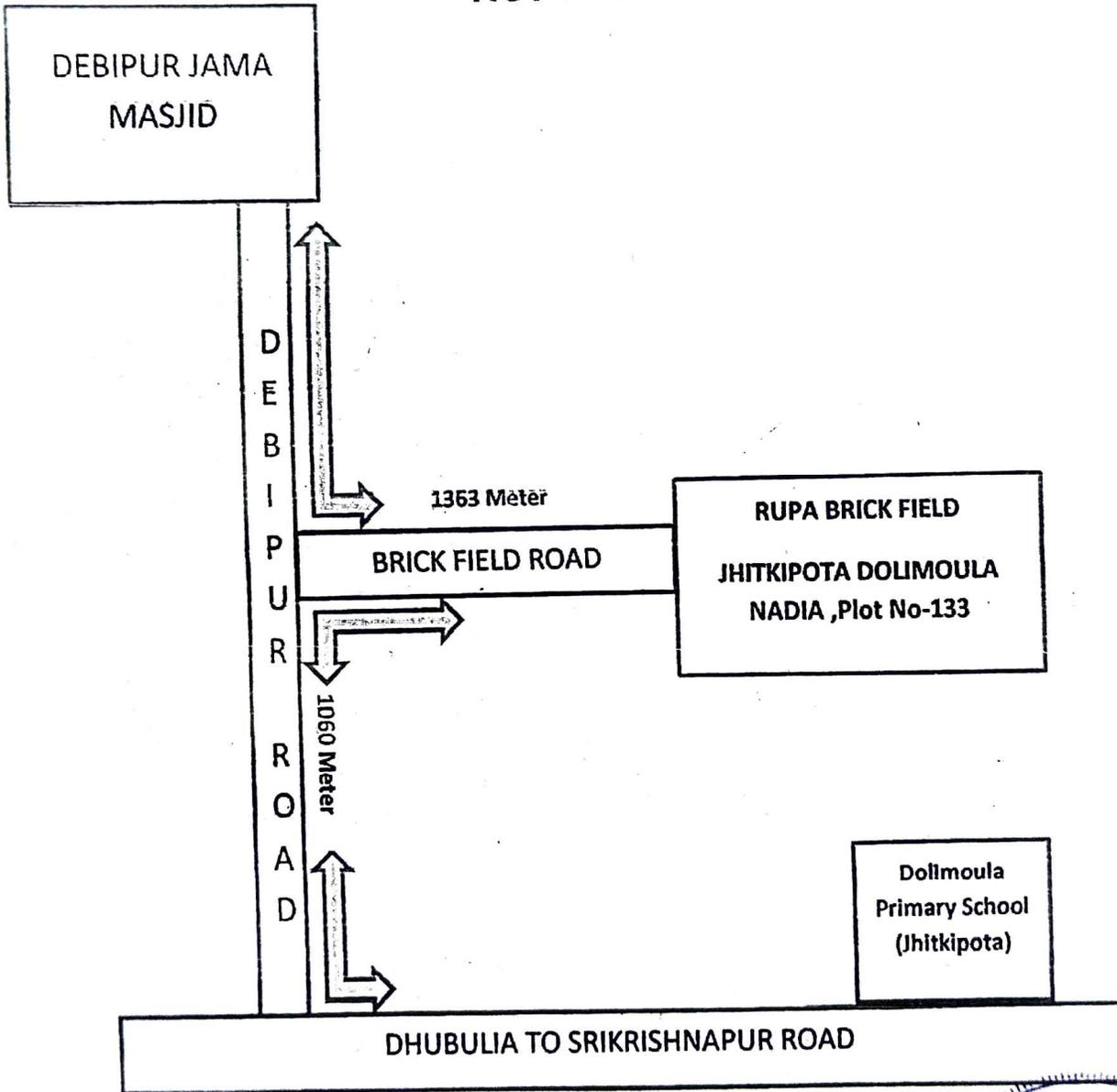
Dhubulia Jhitkipota , Nadia , W.B

M-9851402960

Ref No.....

DATE 02.02.2025

NOT TO SCAL



Karunamoy Biswas
2.2.25
KARUNAMOY BISWAS
SURVEYOR
W.B.S.C. of V.E. & E.T. Code no.-6270/08
Dhubulia, Jhitkipota, Nadia



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

O. A. No. 84 of 2020/EZ

In the matter of :

Rajjak Seikh & Ors.

... Applicants

-vs-

West Bengal Pollution Control Board &
Ors.

... Respondents

AFFIDAVI IN REPLY ON BEHALF OF
THE RESPONDENT NO. 15
AGAINST COUNTER AFFIDAVIT FILED
ON BEHALF OF THE RESPONDENT
NO. 7.

Nilanjan Paul, Advocate
Subir Debnath, Advocate
Pappu Adhikari, Advocate
High Court, Calcutta
Bar, Association Room No. 5 & 13
Mobile: 94337 68756/8910750533/
82404 64153
Email: subir9@gmail.com
adv.adhikari@gmail.com