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**BEFORE THE NATIONAL GREEN TRIBUNAL,
(EASTERN ZONE BENCH), KOLKATA
ORIGINAL APPLICATION NO. 16 OF 2024/EZ**

BETWEEN

MD. HUMAYUN ABBAS

..... **APPLICANT.**

-VS-

STATE OF WEST BENGAL & ORS.

..... **RESPONDENTS.**

I N D E X

Sl.No.	Particulars of Documents	Annexure	Page No.
1.	Supplementary affidavit on behalf of the respondent nos. 4, 5 and 6.		1-3
2.	Photocopy of the Writ Petition being WPA No. 9743 of 2024 along with its order and report of the special officer.	"Y-1"	4-35
3.	Photocopy of the writ Petition being WPA No.17769 of 2024 and its status report.	"Y-2"	36-123

Serial No. 16/25
As per Register of Notary

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA.
ORIGINAL APPLICATION NO. 16 OF 2024/EZ**

BETWEEN

MD. HUMAYUN ABBAS

.... Applicant

Versus

STATE OF WEST BENGAL & ORS.

.....Respondents.

**SUPPLEMENTARY AFFIDAVIT ON BEHALF OF THE RESPONDENT NOS.
4, 5 AND 6.**



The humble petition on behalf of the applicants above named -

M. Irfan Javed, son of Javed Akhtar, aged about 47 years, by faith :Muslim, by occupation : Business, residing at 13/2C, Palm Avenue, P.S. Karaya, Kolkata - 700019, do hereby solemnly affirm and say as follows:-

1. I am the respondent no. 5 herein and I am also well acquainted with the facts and circumstances of the instant case. I am competent to make and affirm this affidavit and authorized to make and affirm this affidavit for and/or on behalf of the Respondent Nos. 4 and 6.
2. I state that during pendency of this application, the present petitioner set up one third party namely Mukhtar Khan who filed one writ petition before the Hon'ble High Court at Calcutta being WPA 9743 of

22 APR 2025

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2024 with the moot allegation that the premises in dispute being 7A, Tiljala Place, PS- Karaya, Kolkata - 700017 is a water body and the construction over the same is illegal. The said writ petition came up for hearing before The Hon'ble Justice Kausik Chanda on 25/02/2025, where in His Lord Ship was pleased to appoint special officer for inspection of the said premises for the adjudication of the lis and accordingly the special officer duly submitted his report upon proper inspection in presence of all the parties as well as KMC, the matter again came up for hearing before The Hon'ble Justice Gaurang Kanth on 02/04/2025 where in His Lordship was pleased to negate the contention of the petitioner with regard to the claim of 17 Cottahs of water body and further observed that the construction is being carrying on as per the building sanction plan and the water body is being maintained as mentioned in the sanction plan as per report of the special officer. Copy of the writ petition along with its order and report of the special officer is collectively annexed here with and marked as 'Annexure Y-1'.

3. I further state that the petitioner suppressed the fact of filing a writ petition before the Hon'ble High Court by himself being WPA no. 17769 of 2024 over the self same issue and self same property between the same upon failure to get any order of injunction before this Ld. Tribunal with the malafide intention to harass and blackmail the private respondent for the wrongful gain, Copy of the WPA no.

22 APR 2025

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17769 of 2024 and its status report is annexed here with and marked as 'Annexure Y-2'.

4. I state that the observation of the Hon'ble High Court in this regard is conclusive and the petitioner is only interested in forum shopping with the intention of legal extortion and the present litigation is nothing but abuse of process of law.
5. I state that the aforesaid writ petition along with its order and report of the special officer is relevant and record of subsequent event which is necessary for the proper adjudication of the lis between the parties. It is also stated that this supplementary affidavit is treated as part of objection against the Original Application being O. A. No. 16 of 2024/EZ for the sake of justice.
6. I submit that unless such leave is granted, I shall suffer irreparable loss and injury.
7. That the statements made in paragraph no. 1 to 5 hereinabove are true to my knowledge, the statements made in paragraph no. 2 are derived from records and the rest are my humble submissions before this Hon'ble Tribunal.

Manoj Kumar

DEPONENT



Substantially affirmed and executed
Before me on Identification

Identified by me

Manoj Kumar
PARAMITA PAL
City Civil Court
Kolkata
Reg No. 083/2022

Manoj Kumar
Advocate

22 APR 2025

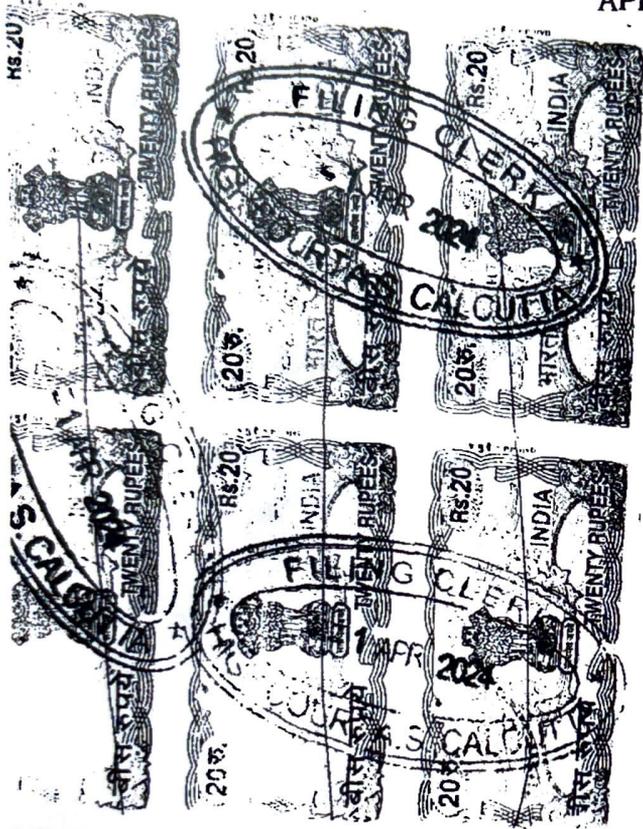


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Use Memorandum
Admission

DISTRICT: KOLKATA

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE



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9743
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W.P.A. NO. OF 2024

In the matter of :

An application under Article 226 of
the Constitution of India;

And

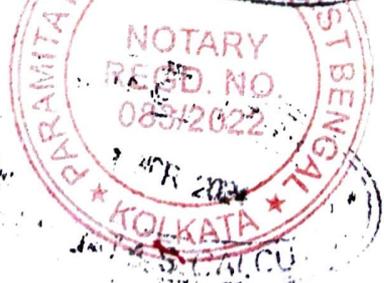
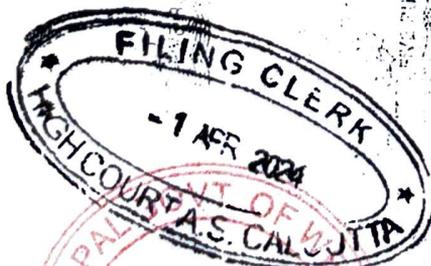
In the matter of :

Md. Mukhtar Khan, son of Late
Sakhyat Khan, residing at 89B,
Colin Street, Park Street, P.O. – Park
Street, P.S. – Park Street, Kolkata -
700016.

... Petitioner

-Versus-

1. The State of West Bengal,
service through the Secretary,
Department of Urban Development
of Municipal Affairs, Government of
West Bengal, having office at
"Nabanna", 325, Sarat Chatterjee
Road, Mandirtala, Shibpur, District
- Howrah, PIN - 711102.





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2. The Mayor, Kolkata Municipal Corporation, 5, S.N. Banerjee, Kolkata - 700013.

3. The Executive Engineer, Borough VII, Kolkata Municipal Corporation, Ward No. 65, 5, S.N. Baenrjee, Kolkata - 700013.

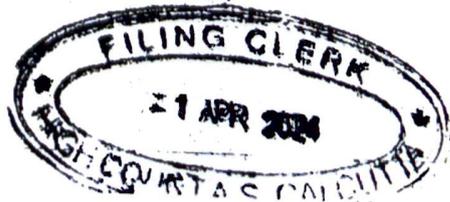
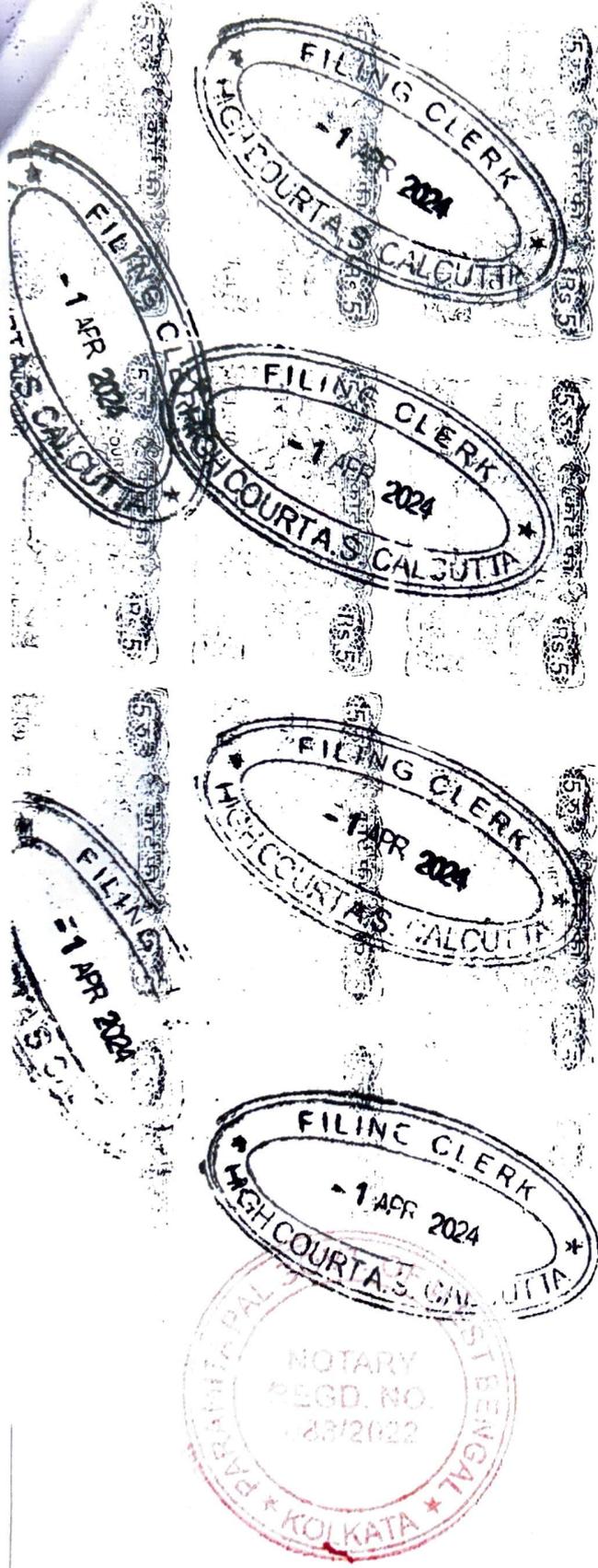
4. The D.G. Building, Kolkata Municipal Corporation, 5, S.N. Baenrjee, Kolkata - 700013.

5. The Assistant Director of Fisheries, West Bengal, 31, G.N. Block, Sector - V, Kolkata - 700091.

6. The Commissioner of Police, Kolkata Police, 18, Lalbazar Street, Lalbazar, Kolkata - 700001.

7. The Dy. Commissioner of Police, South-East Division, Kolkata - 700017.

8. The Director General, Environment & Heritage



(X)

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Department, Marcos Street, Kolkata
- 700087.

9. The Officer-in-Charge, Karaya
Police Station, Kolkata - 700017.

10. Javed Akhtar, son of Late
H.M. Ishaque.

11. Shaheda Parveen, wife of
Javed Akhtar.

12. Rehan Javed,

13. Irfan Javed,

Both are sons of Javed Akhtar,

All are residing at 13/2C, Palm
Avenue, P.S. - Karaya, Kolkata -
700019.

.... Respondents

To

The Hon'ble T. S. Sivagnanam, Chief Justice And His Companion
Justices of the said Hon'ble Court.

The humble petition of the
petitioner above named most
respectfully -





SHEWETH :

1. That the petitioner is a citizen of India and permanent resident of the address mentioned in the Cause Title mention here-in-above.
2. That the petitioner has obtained a Power of Attorney from the legal heirs of one Begum Lutfannessa who is the owner of the land in question comprising premises no. 7, 7A, 7B, 7C, 7E, 7F, Tiljala Place, P.S. – Karaya, Kolkata – 700017. The said land is total 33 cottah out of which 17 cottah of land is in nature of 'tank'. The original owner of the land in question is Begum Lutfannessa, wife of Khan Sahib Moulavi Wahiduzzaman was the resident of Republic of Bangladesh who died leaving behind her legal heirs namely i) Lutfe Elahi Quamruzzaman, ii) Nasim Asrafuzzaman, iii) Wasim Alimuzzaman, iv) Nayeem Rasheduzzaman, v) Sirkuakramuzzaman, vi) Nazim Habibuzzaman, all sons of Late Alhaj Waheduzzaman, vii) Fatema Choudhury, viii) Sufia Siddique, ix) Mrs. Asrafunnessa, all daughters of late Alhaj Waheduzzaman.

The said Lutfunnessa died on 29.06.2011 in Bangladesh.

The above legal heirs of the said Lutfunnessa have executed a general power of attorney in favour of the petitioner dated 10th day of August, 2017 which is still in force.

The Xerox copy of the Deed of Conveyance along with General Power of Attorney and the Death Certificate of said Lutfunnessa are annexed herein and marked as Annexure "P-1" collectively.



3. The said Lutfunnessa used to live at Bangladesh till her death.
4. The private Respondents have obtained false Deed of Conveyance in their favour which is under challenge by filing a Title Suit No. 391 of 2024 before the 2nd Civil Judge (Sr. Division), Alipore, praying inter alia of :
 - a) Decree for declaration that the Plaintiff is the sole and absolute owner of the suit property particularly described in the schedule below.
 - b) Decree for declaration that the Decree passed in Title Suit No. 53/2004 is collusive, product of fraud and not binding upon the Plaintiffs herein and be set aside.
 - c) Decree for declaration that the purported false Deed being No. 1240 dated 20.03.1998 in favour of Javed Akhter, Deed No. 1238 dated 20.03.1998, Deed No. 1237 dated 20.03.1998 in the name of Rehan Javed, and Deed No. 1239 dated 20.03.1998 in the name of Irfan Javed are absolutely false, void ab ignition, and not binding upon the plaintiffs in the names of the Defendants if any found are product of fraud and is null and void, and be rescinded.
 - d) Decree for permanent injunction restraining the Defendants, each of them their men and agents from disturbing the





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peaceful possession, use and occupation of the plaintiff in the suit property, from entering into the suit property with force, from interfering with the right, title and interest and possession of the Plaintiff in respect of the suit property described in the Schedule below, and from ousting the Plaintiff from the suit property comprised in the Schedule below.

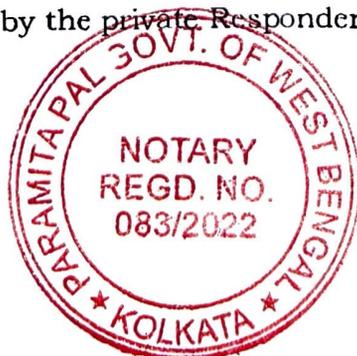
- e) For a decree for costs and incidental of the suit.

The Xerox copy of the plaint being Title Suit No. 319 of 2024 along with an application under Order 39 Rule 1 & 2, Civil Procedure Code is annexed herewith and marked as Annexure "P-2" collectively.

5. That your Petitioner came to know that the private Respondents have obtained a sanction plan over the said disputed property from the Kolkata Municipal Corporation by suppressing the aforesaid material facts including a plan over a tank as recorded in the Deed of Kobala.

The total land is 33 cottahs 2 chittaks 13 square feet out of which 17 cottahs belong to 'tank'.

The Kolkata Municipal Corporation has sanctioned the plan on total land including the land of tank which is illegal as the matter was suppressed by the private Respondents.





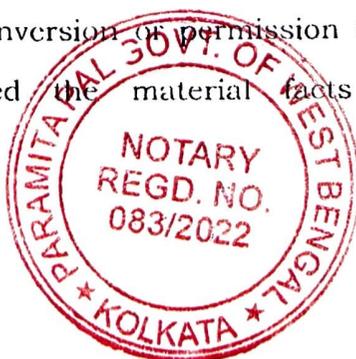
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6. The Petitioner made an application under Section 6 of the Right to Information Act on 15.02.2024 before the S.P.I.O., Executive Engineer, Building Department, Ward No. 65, Borough VII, seeking information regarding any sanction building plan at the premises no. 7, 7A, 7B, 7C, 7D, 7E and 7F of the Tiljala Place Road, P.S. – Karaya, Kolkata – 700017, which is still pending under consideration. No reply has been received till date.

The Xerox copy of the Application under the Right to Information Act, dated 15.02.2024 is annexed hereto and marked as Annexure “P-3”.

7. That your Petitioner made a complaint before the Kolkata Municipal Corporation Authority through Speed Post dated 31.01.2024 stating inter alia as follows :-

- i) That one Lutfunnessa Bibi was the owner of the aforesaid premises and she had the property of the aforesaid premises and she purchased by a registered Deed vide Deed No. 643 in Book No. I, Volume No. 25, Pages 72 to 80, in the year 1945 before the Office of S.R.O. Sealdah.
- ii) That the land measuring about 17 cottahs, the nature of the land is pond or tank and 16 cottahs is recorded as bastu.
- iii) That without conversion or permission the aforesaid persons have suppressed the material facts with the criminal





conspiracy of some Govt. staffs of the Kolkata Municipal Corporation.

- iv) That the Kolkata Municipal Corporation gave sanctioned plan vide No. 2023070080 dated 05.07.2023 by suppressing the material facts and circumstances of the nature of the land pukur or tank illegally and wrongfully without any proper due course of law.
- v) That, that is only source of sewerage of drains in the locality and causing disturbances in free egress and ingress of the local people.
- vi) That the above named persons have made a fake and fraud documents and mutated their names before the Kolkata Municipal Corporation Authority and got sanction plan as mentioned above without changing or conversion of the nature of the land from pukur/pond or tank into bastu one and by suppressing the material facts they got the sanctioned plan or pukur and started to fill and construct and illegal building.

The Municipal Authority as well as Police authority has duly received the complaint on 5th, 6th and 7th of February, 2024 but till then they have not taken any steps regarding the complaint made by the Petitioner. The reason best known to them.



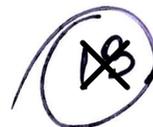
The Xerox copy of the complaint dated 31.01.2024 along with the original postal receipt and postal track record are annexed herewith and marked with Annexure "P-4" collectively.

8. That being aggrieved by and dissatisfied with the action on the part of the Respondent authorities by not cancelling the sanction plan against the premises in question obtained by the private Respondents by suppressing the material facts as stated in the instant writ petition stated as above and the plan has been obtained on the land bearing nature 'tank', your Petitioner begs to move this writ application amongst other grounds :

GROUND

- I. For that the Respondent authorities acted illegally and with malafide by sanctioning building plan on premises No. 7, 7A, 7B, 7C, 7D, 7E and 7F of the Tiljaja Place Road, P.S. - Karaya, Kolkata - 700017.
- II. For that the private Respondents have obtained a sanction plan vide No. 2023070080 dated 05.07.2023, as the Petitioner came to know from a reliable source, by suppressing material facts that the land in question in 'tank' or 'Pukur' as contained in the Deed, ought to be cancelled and/or revoked by the Municipal Authorities.





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- III. For that the Respondents authorities specially, the Municipal Authority failed to consider the representation dated 31.01.2024 made before them, which they duly received on 5th, 6th and 7th of the February, 2024.
- IV. For that the Respondent authorities acted illegally and malafide by sitting tight over the issue and by not taking any plausible steps to stop the construction of building against which a sanction plan has been obtained by the Municipal Authority on 'Tank' or 'pukur' by the private Respondents herein.
- V. For that the principles of Natural justice has been grossly violated in the instant case.
- VI. For that there has been a failure of justice.
9. Your Petitioner states that unless an order is passed by this Hon'ble Court thereby directing these Respondent Authorities to stop the construction of the building in the premises No. 7, 7A, 7B, 7C, 7D, 7E and 7F of the Tiljala Place Road, Kolkata - 700017 and thereby cancel the sanction plan obtained on the land of nature 'Tank', your Petitioner will suffer irreparable loss and injury.

10. Your Petitioner states that unless an order is passed by this Hon'ble Court thereby directing the Respondent Authorities especially the Kolkata Municipal Corporation to consider the representation of





your Petitioner dated 31.01.2024 being Annexure 'P-4' to this petition, your Petitioner will suffer irreparable loss and injury.

11. Your Petitioner states that there is no other alternative speedy and efficacious remedy available to your Petitioner and the relief sought for hearing, if granted, would afford complete relief to your Petitioner.

12. Your Petitioner states that the records relating to the case of your Petitioner are lying within the appellate side jurisdiction of this Hon'ble Court and as such this Hon'ble Court in its Appellate Side jurisdiction has jurisdiction to try and entertain the instant writ petition.

13. Your Petitioner states that your petitioner has not filed any other writ petition and/or any other application either before this Hon'ble Court or before any other Courts in India on the self same cause of action.

14. This application is made bonafide and in the interest of justice.

In the premises as aforesaid, your Petitioner most humbly prays that your Lordships would graciously be pleased to issue -





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(a) A writ in the nature of Mandamus commanding the Respondents Authorities to immediately stop the construction of the building at premises No. 7, 7A, 7B, 7C, 7D, 7E and 7F of the Tiljaja Place Road, P.S. – Karaya, Kolkata - 700017.

(b) A writ in the nature of Mandamus commanding the Respondent Authorities, especially the Building Department of the Kolkata Municipal Corporation Authority to cancel the sanction plan issued to the private Respondents at premises No. 7, 7A, 7B, 7C, 7D, 7E and 7F of the Tiljaja Place Road, P.S. – Karaya, Kolkata – 700017 being sanction No. 2023070080 dated 05.07.2023, Ward No. 5, Borough No. 7, proposed G+7 storeyed Residential Building on the land in nature 'Tank' or 'pukur'.



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(c) A writ in the nature of Mandamus commanding the Kolkata Municipal Corporation to consider the representation of your Petitioner dated 16.03.2023 being Annexure "P-4" to this writ petition.

d) A writ in the nature of certiorari commanding the Respondents to certify and transmit the records relating to the case of your petitioner to this Hon'ble Court so that your Lordship on perusal of the same may do conscionable justice to your Petitioner by setting aside and quashing any orders that may be found to have been passed illegally and adversely to the interest of your Petitioner.

(e) Rule NISI in terms of the prayers (a), (b), (c) and (d) above.

(f) An order of injunction be passed thereby restraining the private Respondents from constructing the building in



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question at premises No. 7, 7A, 7B, 7C, 7D, 7E and 7F of the Tiljaja Place Road, P.S. - Karaya, Kolkata - 700017.

g) An ad-interim order of injunction in terms of prayer (f) above;

h) Cost of an incidental to this petition.

i) Such further order/orders as your Lordship may deem fit and proper.

And your petitioner as in duty bound shall ever pray.

Md. MUK...

Md. MUK...

1. 4. 2024





AFFIDAVIT

I, Md. Mukhtar Khan, son of Late Sakhyat Khan, aged about 57 Years, by faith - Islam, by occupation - Un-employed residing at 89B, Colin Street, Park Street, P.O. - Park Street, P.S. - Park Street, Kolkata - 700016, do hereby solemnly affirm and say as follows:-

1. That I am the petitioner in the writ petition, as such I am well acquainted with the facts and circumstances of the case and I am competent to sign and affirm this affidavit on my behalf.

2. That the statements made in paragraph Nos. 1 to 7 are true to my knowledge and rest are my respectful submissions before this Hon'ble Court.

Md. Mukhtar Khan
Md. Mukhtar Khan

The Deponent is known to me,

Dr. Maiti Raha
Clerk to Mr. *Su. Hanyoung*
Advocate

Prepared in my office

Mr. Mansoor Alam

Advocate

Enrolment No. WB/469/1996

Solemnly affirmed before me on this day of April, 2024.

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[Signature]
11/4/24

COMMISSIONER

I certify that all annexures are legible.

[Signature]

Advocate



Through
Ms. Meenakshi
Advocate



DISTRICT: KOLKATA

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

WPA 9743/23
W.P.A. NO. OF 2024

In the matter of :
An application under Article 226 of
the Constitution of India;

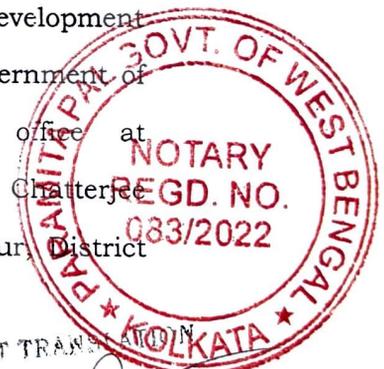
And

In the matter of :
Md. Mukhtar Khan, son of Late
Sakhyat Khan, residing at 89B,
Colin Street, Park Street, P.O. – Park
Street, P.S. – Park Street, Kolkata -
700016.

... Petitioner

-Versus-

1. The State of West Bengal,
service through the Secretary,
Department of Urban Development
of Municipal Affairs, Government of
West Bengal, having office at
"Nabanna", 325, Sarat Chatterjee
Road, Mandirtala, Shibpur, District
- Howrah, PIN - 711102.



WITHOUT TRANSFER

11.04.2015



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2. The Mayor, Kolkata Municipal Corporation, 5, S.N. Banerjee, Kolkata - 700013.

3. The Executive Engineer, Borough VII, Kolkata Municipal Corporation, Ward No. 65, 5, S.N. Baerjee, Kolkata - 700013.

4. The D.G. Building, Kolkata Municipal Corporation, 5, S.N. Baerjee, Kolkata - 700013.

5. The Assistant Director of Fisheries, West Bengal, 31, G.N. Block, Sector - V, Kolkata - 700091.

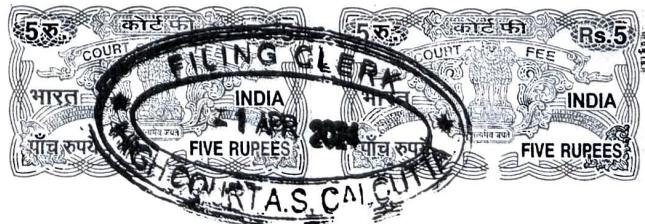
6. The Commissioner of Police, Kolkata Police, 18, Lalbazar Street, Lalbazar, Kolkata - 700001.

7. The Dy. Commissioner of Police, South-East Division, Kolkata - 700017.

8. The Director General Environment & Heritage



Handwritten signature and date: 11.04.2025



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Department, Marcos Street, Kolkata
- 700087.

9. The Officer-in-Charge, Karaya
Police Station, Kolkata - 700017.

10. Javed Akhtar, son of Late
H.M. Ishaque.

11. Shaheda Parveen, wife of
Javed Akhter.

12. Rehan Javed,

13. Irfan Javed,

Both are sons of Javed Akhtar,

All ¹⁰⁷⁰¹³ are residing at 13/2C, Palm
Avenue, P.S. - Karaya, Kolkata -
700019.

.... Respondents

Sm
11.04.2025



25.02.2025
Sl. No.60(DL)
Ct. No.15
srn

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 9743 of 2024

Md. Mukhtar Khan

Versus

The State of West Bengal & Ors.

Mr. Baidurya Ghosal,
Mr. Sourav Mukherjee,
Mr. Saikat Mukherjee

...for the Petitioner.

Mr. Biswajit Mukherjee,
Mr. Atis Kumar Biswas

...for the Kolkata Municipal Corporation.

Mr. Arjun Roy Mukherjee,
Mr. Aviroop Bhattacharya

...for the State-respondents.

Mr. Arindam Banerjee,
Mr. S. Alam

...for the Respondent Nos.10 to 13.

The affidavit of service filed by the petitioner is taken on record.

It appears from the report submitted by the Kolkata Municipal Corporation today that the relevant building is being constructed in accordance with the plan sanctioned by the Corporation. The plan was sanctioned with the condition that Respondents Nos. 10 to 13 shall create a water body of an area measuring 1 cottah 7 chattak (1035 sq. ft.), in the relevant premises. However, the Corporation's report does not indicate whether

11.04.2025



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Respondents Nos. 10 to 13 have complied with the precondition of creating the water body, as stipulated in the sanctioned plan.

In light of this, Mr. Subit Majumdar, Advocate, (Mobile No.9831759754) is appointed as a Special Officer to ascertain whether Respondents Nos. 10 to 13 have made the necessary provision and taken steps to create the water body, as directed by the Corporation.

The Special Officer shall be compensated with a consolidated fee of Rs. 50,000/-, which shall be borne by Respondents Nos. 10 to 13.

The inspection is scheduled for March 1, 2025. The Kolkata Municipal Corporation shall ensure that a competent officer is deputed to be present during the inspection. The Corporation shall provide the Special Officer with a copy of the sanctioned plan.

Since all the parties are appearing before this Court, no separate notice for inspection is required to be given by the Special Officer.

This matter is listed for hearing after two weeks under the heading "**To Be Mentioned.**"

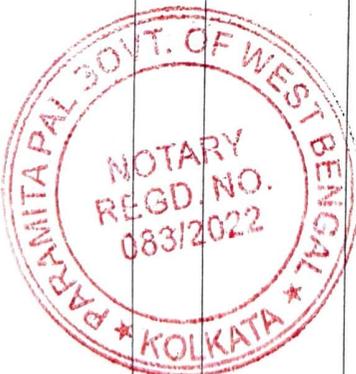
(Kausik Chanda, J.)

11.04.2025





Office Advocate	Serial No.	Date	Office notes, reports, Orders or proceedings with signature
	02.04.2025 Sl. No. 39 Ct.3/ tkm		<p style="text-align: center;">W.P.A. 9743 of 2024 [Md. Mukhtar Khan vs. State of West Bengal & Ors.]</p> <p>Mr. Baidurya Ghosal Mr. Sourav Mukherjee Mr. Saikat Mukherjee Ms. Anupama Biswas for the petitioner</p> <p>Mr. Biswajit Mukherjee Mr. Atis Kr. Biswas for KMC</p> <p>Mr. Arjun Roy Mukherjee for the State</p> <p>Mr. Arindam Banerjee Mr. Shareq Siddique Ms. S Alam for respondent nos. 10 to 13</p> <p>Mr. Subit Majumdar Special officer</p> <ol style="list-style-type: none"> 1. The Special Officer has filed his report. The counsel for the petitioner is asked whether he wishes to file his exception to the Special Officer's report. Learned counsel for the petitioner does not wish to file the same 2. Petitioner has preferred the present writ petition alleging unauthorized illegal construction being raised in premises no. 7,7A,7B,7C,7E,7F, Tiljala Place, PS Karaya Kolkata 700017. 3. It is the case of the petitioner that illegal construction is being carried out by the private respondent nos. 10 to 13. 4. This court vide order dated 25.2.2025 had recorded the submission of the counsel for the



11.04.2025



By Office Advocate	Serial No.	Date	Office notes, reports, Orders or proceedings with signature
			<p>KMC wherein it is stated that relevant building is being constructed in accordance with plan sanctioned by the corporation.</p> <p>5. It is further submitted that the plan was sanctioned with the condition that respondent nos. 10 to 13 shall create a waterbody of an area measuring 1 cottah 7 chittak (1035 sft) in the relevant premises.</p> <p>6. Vide order dated 25.2.2025 a co-ordinate Bench of this court had appointed Mr. Subit Majumdar as special officer and directed him to go and inspect the property and file report indicating whether the waterbody as stipulated in the sanction plan is being constructed and maintained as per undertaking given by the private respondents to the corporation at the time of sanctioning of the building plan.</p> <p>7. A report has been filed by the special officer, in which he indicated that he had conducted an inspection along with an officer from the KMC and concluded that respondent nos. 10 to 13 had made the necessary provision and created a waterbody measuring approximately 1101 square feet within the boundary of the relevant premises, as directed by the KMC at the time of sanctioning the building plan. He further</p>



11.04.2025

By Office Advocate	Serial No.	Date	Office notes, reports, Orders or proceedings with signature
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observed that the said waterbody is constructed and maintained in accordance with the law

8. The petitioner's contention that he is the owner of 17 cottah and that it should be maintained as a waterbody is irrelevant, as the sanctioned plan only disputes 1 cottah 7 chittack.

9. In view of the same nothing survives in the present writ petition and the same is disposed of in view of the fact that respondent nos. 10 to 13 are constructing the property as per sanctioned building plan and the waterbody is being maintained as mentioned in the sanction plan as per report of the special officer.

Sd/- G. Kanth, J.
(Gaurang Kanth, J.)

11.04.2025



DISTRICT : KOLKATA

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. NO. 9743 of 2024

An application under Article 226 of
the Constitution of India;

And

In the matter of:

Md. Mukhtar Khan

....Petitioner

Versus

The State of West Bengal & Ors

...Respondents

In reference of the persons Order dated 25th day of February, 2025 passed by The Hon'ble Justice Kausik Chanda in W.P.A. NO. 9743 of 2024 I have been appointed as a Special Officer to carry out the said Order to ascertain whether Respondents Nos. 10 to 13 have made the necessary provision and taken steps to create water body of an area measuring about 1 Cottah 7 Chittack (1035 sft) in the relevant premises or not ?

11.04.2025





Accordingly I visited the said premises having K.M.C. premises no. 7A, Tiljala Place, ward no. 65 on 1st day of March, 2025 as the Special Officer and found the following inventories ;

- (i) A copy of the Sanctioned building plan received from the Assistant Engineer of the Kolkata Municipal Corporation, Mr. Madhusudan Halder in presence of all the parties.
- (ii) I made the inspection of the said relevant premises in presence of all the parties i.e; Petitioner, Respondents and K.M.C. personnel.
- (iii) I found a water body situate at the east side of the relevant premises.
- (iv) The K.M.C. officers under supervision of the said Assistant Engineer of the Kolkata Municipal Corporation, Mr. Madhusudan Halder physically measured the said water body in presence of all the parties therein.
- (v) A hand drawing sketch plan of that water body was made by me in presence of all the parties therein, duly approved by the Assistant Engineer of the Kolkata Municipal Corporation, Mr. Madhusudan Halder and duly signed by all the parties therein

11.04.2025



(The original Hand Drawing Sketch plan is annex herewith for Your Honour's perusal).

- (vi) In this relevant premises the water body measuring about 1101 square feet had found upon physical measurement under supervision of the said Assistant Engineer of the Kolkata Municipal Corporation, Mr. Madhusudan Halder and in presence of all the parties therein.
- (vii) All the above said inventories were written in presence of all the parties therein and all the parties also duly signed of such Notes of Inventories (The original Notes of Inventories is annex herewith for Your Honour's perusal)
- (viii) During the inspection of the said relevant premises I took some photos of the said water body in presence of all the parties i.e; Petitioner, Respondents and K.M.C. personnel(The said original photographs are annex herewith for Your Honour's perusal).

As a special officer appointed by the The Hon'ble Justice Kausik Chanda in W.P.A. NO. 9743 of 2024 I do hereby confirm that upon inspection of the relevant premises no. premises no. 7A, Tiljala Place, ward no. 65 I found that the respondent nos. 10 to 13 have made the

11.04.2025





necessary provision and also create a water Body measuring about 1101 square feet within the boundary of the relevant premises as directed by the Kolkata Municipal Corporation.

Subit Majumdar
Subit Majumdar,
Advocate

Special Officer appointed by
The Hon'ble Justice Kausik Chanda

11.04.2025





Sanctioned Building Plan received from Mr. Madhusudan Halder, Asst. Engineer, KMC.

- 2) Inspection of spot made by me in presence of all the parties i.e. Petitioner, Respondents and KMC personnel.
- 3. Measurement of that water body physically measured by KMC personnel in presence of all the parties under supervision of Asst. Engineer Mr. Madhusudan Halder.
- 4. Hand drawing site plan, sketch ^{of water body} by me in presence of all the parties duly approved by Asst. Engineer KMC.
- 5. In this premises the water body measuring about 1101 sq ft has found as per physical measurement under supervision of Asst. Engineer, KMC and in presence of all the parties.
- 6. Inspection Book copy (I.B.) for period 1st Apr. 12-13 supplied by Respondent nos. 10 to 13 (Photocopy)
- 7. Respondent will submit Assessment Rate copy to me on Tuesday (authenticate copy)
- 8. Petitioner will supply relevant documents on Monday.

md. muktabar khan
01-3-25

Digitized by me
Prabir Kumar Das
ADR WD/1915/2015

Madhu Saha
Asst. Engineer
KMC
01/3/2025

Jefan Javed.
(for self and on behalf
of Javed Akhtar,
Shahida Perveen and
Rohan Javed)
1-3-25

Pradyumn
R-1146/780/2006
for pr
respondent
11/3/25

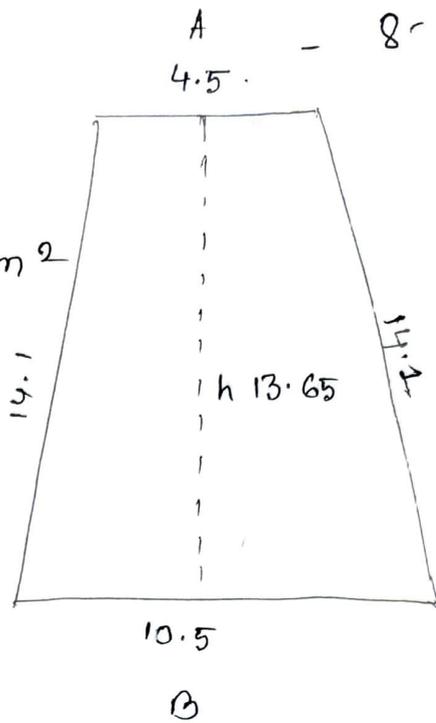
11.04.2025





area for trapezium

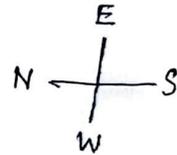
$$\begin{aligned}
 &= \frac{1}{2} (A+B) h \\
 &= \frac{1}{2} (4.5 + 10.5) \times 13.65 \text{ m}^2 \\
 &= \frac{1}{2} \times 15 \times 13.65 \text{ m}^2 \\
 &= 102.375 \text{ m}^2 \\
 &= 102.375 \times 10.764 \text{ ft}^2 \\
 &= 1101.96 \text{ ft}^2
 \end{aligned}$$



Mr. Mukesh Kumar
01.3.25

Identified by me
Prabir Kumar Das
Associate
18/19/15/2013

Isfhan Javed.
(For self and on behalf
of Javed Akhtar, Shaheda Parveen
and Rehan Javed) 01.3.2025



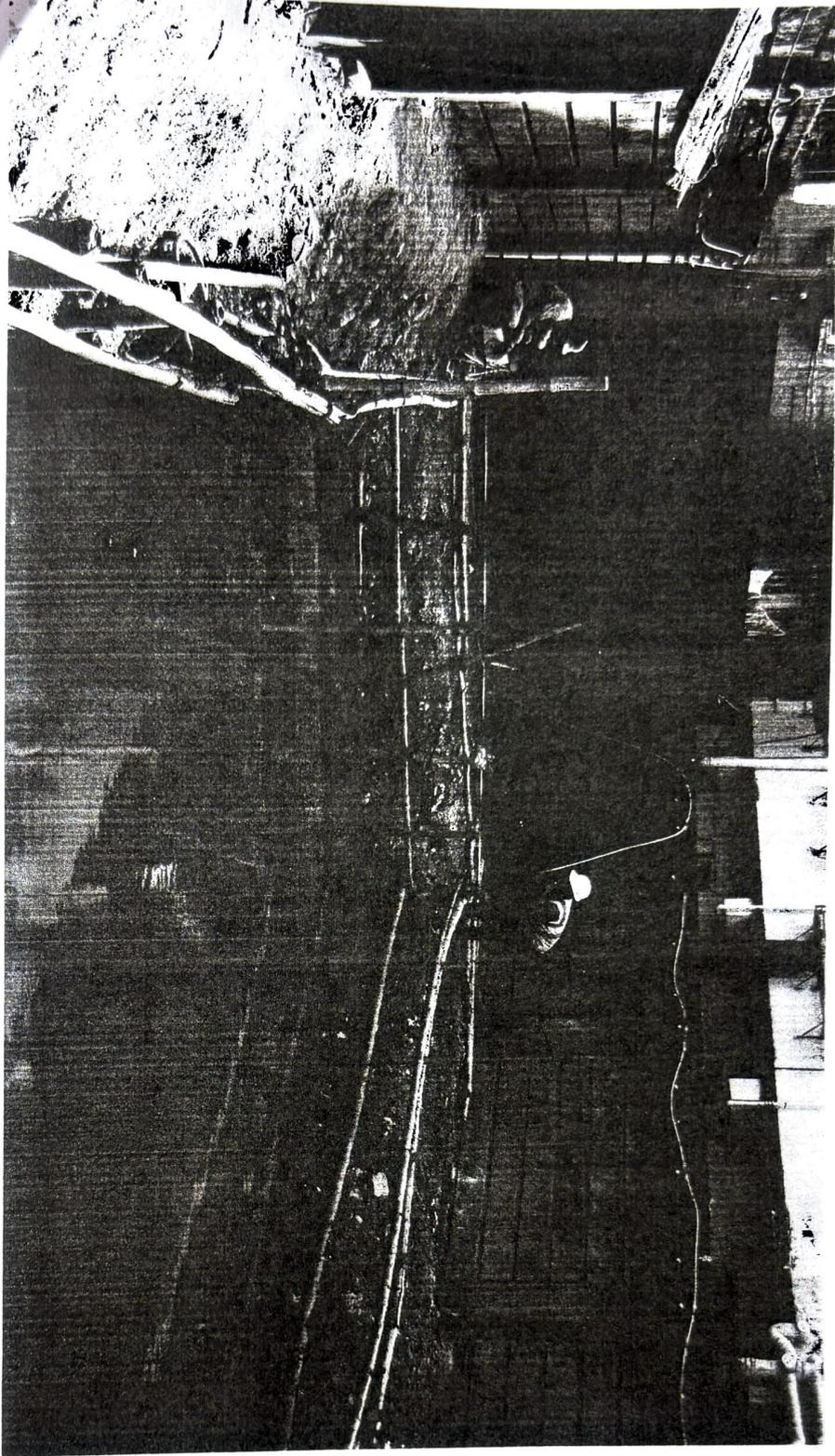
Shrey Swagata Adv. for
private respondents
1/3/25

G-1146/780/2006

Modhu Sudan Das
AEI & / NMC
01/03/2025

11.04.2025





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11.04.2025



83

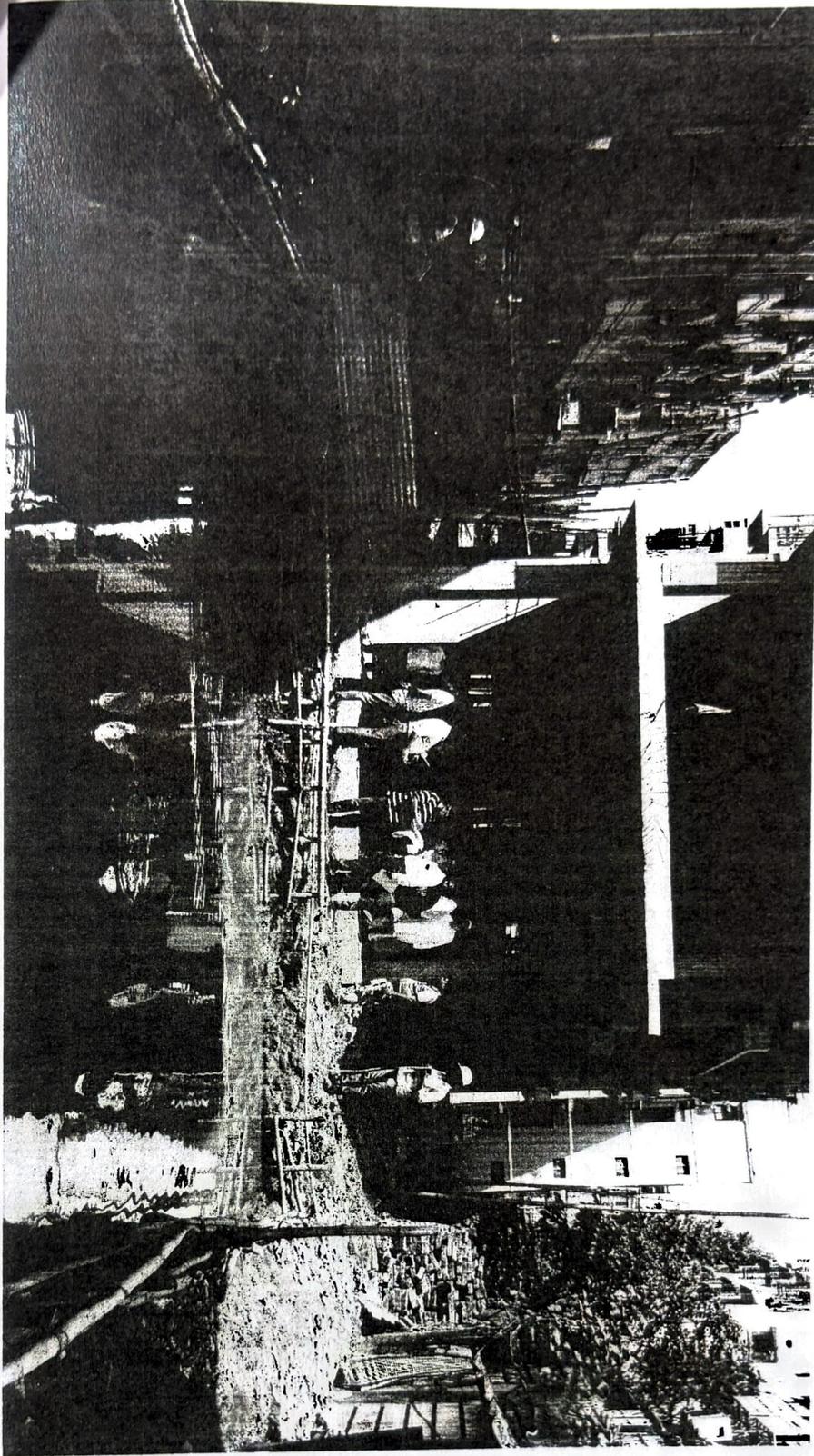


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11.04.2025



3/4

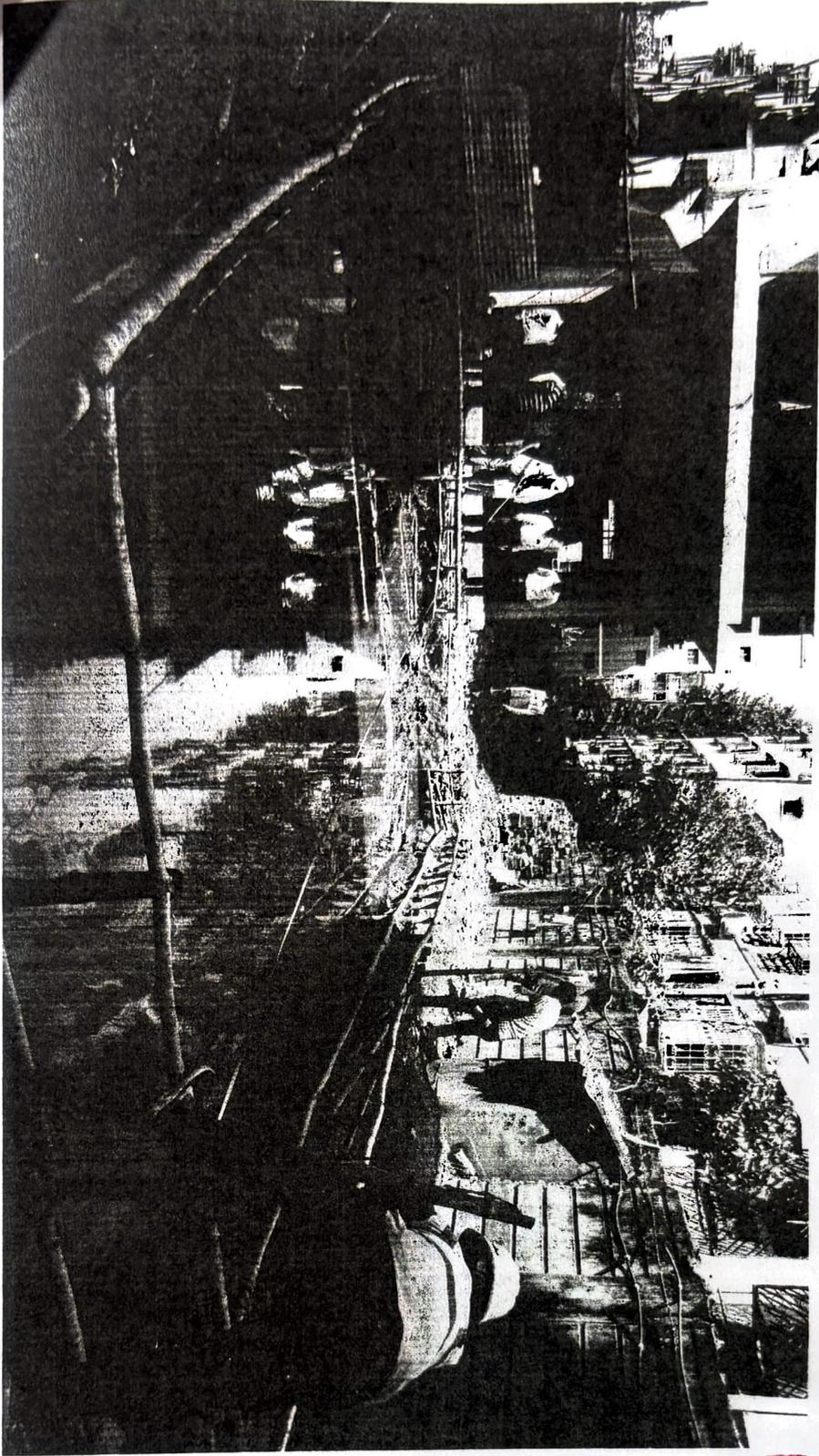


- 11 -

11.04.2025



(Handwritten signature)



- 12 -

11.04.2025

PRAMITA PAL 30VT. OF WEST BENGAL
NOTARY
REGD. NO.
083/2022
KOLKATA



36214

MR. S. A. MOQUED

Advocate
HIGH COURT CALCUTTA
Bar Association Room No.....
Phones : 2248-3169/3190/2243-7363
Fax : (033) 2248-2313
E-mail : bar.association@rediffmail.com
Residence :

Dated : 12 - .07.2024.

To
The I.d. Government Pleader
Appellate Side,
High Court, Calcutta
Kolkata - 700 001.

In Re : W.P.A. 17769 of 2024

MD. HUMAYUN ABBAS & ORS.
..... Petitioners.

-vs-

THE STATE OF WEST BENGAL & ORS.
..... Respondents.

Respected Sir,

Please find herewith two sets of copies of W.P.A. 17769 of 2024, along with all Annexures, which will be moved before HIS LORDSHIP THE HON'BLE JUSTICE KAUSIK CHANDA on 16.07.2024, or so soon the business of the Hon'ble Court permits, for Hearing of the instant W.P.A.

Please attend at the time of hearing.

Kindly acknowledge the receipt of this letter.

This is for your information.

Thanking you.

Encl : As above.

Yours faithfully

S. A. Moqued

(S. A. MOQUED)

Advocate





Calcutta High Court - Appellate side

Appellate side Case Details

Case Type	: WPA		
Filing Number	: 17726/2024	Filing Date:	09-07-2024
Registration Number	: 17769/2024	Registration Date:	10-07-2024
CNR Number	: WBCHCA-033944-2024		

Case Status

First Hearing Date	: 15th July 2024
Next Hearing Date	:
Stage of Case	: NEW MOTION
Coram	: 265781HON'BLE JUSTICE KAUSIK CHANDA
Bench	: Single Bench
State	: West Bengal
District	: KOLKATA
Judicial	: MANDAMUS SECTION
Causelist Name	: Daily List
Not Before Me	:

Petitioner and Advocate

1) MD. HUMAYUN ABBAS AND ORS.

Respondent and Advocate

1) THE STATE OF WEST BENGAL AND ORS.

Subordinate Court Information

Court Number and Name	: --
Case Number and Year	: 0
Case Decision Date	: --
state	:
District	:

History of Case Hearing

Cause List Type	Judge	Business On Date	Hearing Date	Purpose of hearing
Daily List	HON'BLE JUSTICE KAUSIK CHANDA		15-07-2024	NEW MOTION

Orders

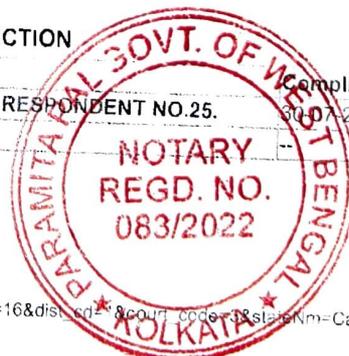
Order Number	Order on	Judge	Order Date	Order Details

Category Details

Category	GROUP A (WRIT MATTERS) (1)
Sub Category	Municipality (17)
Sub Sub Category	Miscellaneous (12)

OBJECTION

Sr.No.	Scrutiny Date	OBJECTION	Compliance Date	Receipt Date
1	09-07-2024	Other Objection : 1. NO ADDRESS OF RESPONDENT NO.25.	09-07-2024	--
2	10-07-2024	All Objections are Complied		



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District : Kolkata:

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. NO. 17769 OF 2024

In the matter of :

An application under Article 226 of
the Constitution of India.

Under Group Head of
the Classification list:

Cause Title

Md. Humayun Abbas & Ors.

.....Petitioners.

Versus

The State of West Bengal & Ors.

.....Respondents.

Advocate-on-Record

MR. S. A. MOQUED, Advocate,

Bar Association Room No. 11,

High Court, Calcutta,

Ground Floor, Kolkata - 700001.

(M) - 9883875859.

e-mail Id : advmoqued.s.a@gmail.com



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District: Kolkata :

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction

Appellate Side

W.P.A. NO. 17769 OF 2024

Md. Humayun Abbas & Ors.

.....Petitioners.

Versus

The State of West Bengal & Ors.

.....Respondents.

Synopsis

One Nirmal Chandra Banerjee executes registered Deed of Pattah under Being No.208 of 1931 in favour of the grandfather of the Petitioners namely Sk. Mohammad Hashem alias Md. Hashem, for a period of 15 years in respect of landed property premises No. 7, Tiljala Place, Kolkata - 700017, comprising of 1 Bigha 13 Cottahs 2 Chittacks 13 sq. ft. land with structures along with a tank of 17 Cottahs. Site plan of the instant Deed shows 17 Cottahs of tank.

Md. Hashem and Md. Yeakub mutated the said land and obtained sanctioned site plan dated 12.06.1931 from Corporation of Calcutta. Subsisting Being No. 208 of 1931 Nirmal Chandra Banerjee executed Sale Deed under Being No. 643 of 1945, sold out the same land to Begum Lutfunnessa. 17 Cottahs of tank is mentioned in this Deed.

In 1962 Begum Lutfunnessa goes to East Pakistan and permanently resides thereon. Guha Thakurta families occupied the said land and filed Title Suit No. 216 of 1979 and obtained Decree for partition, and, in 1990 the Guha Thakurta Families executed Deed of Partition under Being No. 481 of 1990 and mutated their names before K.M.C. and converted the original premises into premises No. 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place.

In 1993 Begum Lutfunnessa through Constituted Attorney files Title Suit No. 63 of 1993 praying for declaration that the Decree of Partition passed in Title Suit No. 216 of 1979 is null and void, which got renumbered as Title Suit No. 53 of 2004, pending which Begum Lutfunnessa, the land in question, under alleged premises Nos. 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place, in four registered Sale Deeds No. 1240, 1239, 1238 and 1237 all of 1998, in favour of the Private Respondents No. 22, 23, 24 and 25, respectively. There is mention of 17 Cottahs of tank in all four Sale Deeds.

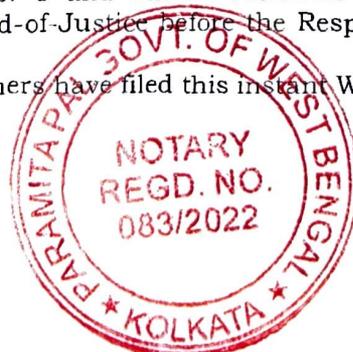
Thereafter, the Private Respondents Rs. 1 crore to the defendants Guha Thakurta Families, who in turn provided 8 surrender certificates to the Private Respondents, in respect of the said landed property. 24.03.2011 the Ld. Civil Judge, Sr. Div., 9th Court, Alipore, passed order and Decree in Title Suit No. 53 of 2004.

The Private Respondents made amalgamation of premises No. 7A to 7F, Tiljala Place, at K.M.C. and obtained a single premises No. 7A, Tiljala Place, and, filled up the 17 Cottahs of tank, and inspite of the same got Sanction Plan, and demolished the hut structures of the petitioners in the concerned land displaying signboard, started construction of G+VII multi-storied building thereon.

The K.M.C. Assessment Book is showing 7A, Tiljala Place as 'D.H. Godown and Tank filled Land'.

The Petitioner No. 1 and other Petitioners sent numerous complaints, representations, Demand-of-Justice before the Respondents Authorities, but did not get redressed.

Hence the Petitioners have filed this instant Writ Petition Application.





District: Kolkata :

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. NO. 17769 OF 2024

Md. Humayun Abbas & Ors.

...Petitioners.

-Versus-

The State of West Bengal & Ors.

.....Respondents.

Short List of Dates

Date	Particulars
10.02.1931	Nirmal Chandra Bandopadhyay/ Banerjee executed registered Deed No. 208 of 1931 in favour of Md. Hashem.
12.06.1931	Corporation of Calcutta provided Hut Sanction Plan to Md. Yeakub and Md, Hashem. Plan shows 17 Cottahs of tank.
07.04.1945	Nirmal Chandra Banerjee sells premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street, to Begum Lutfunnessa.
Year 1962	Begum Lutfunnessa went to permanently residing at East Pakistan.
04.02.1985	Guha Thakurta Family obtain Final Decree for Partition of premises No. 7, Tiljala Place Calcutta, in Title Suit 216 of 1979.
Year 1990	Guha Thakurta families execute registered Partition Deed and convert 7, Tiljala Place and part of 11, Dilkhusha Street, wherein 17 Cottahs of tank is situated, into premises No. 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place, and mutates the property deleting 17 Cottahs of tank.
Year 1993	From Bangladesh, Begum Lutfunnessa files Title Suit No. 63 of 1993 through constituted attorney praying for Declaration that the Decree of Partition passed in Title Suit No. 216 of 1979 is null and void
Year 1998	Pending T.S. 63 of 1993 (renumbered as Title Suit 53 of 2004), Begum Lutfunnessa, illegally executed Sale Deeds under Being Nos. 1240, 1239, 1238 and 1237 all of 1998 in favour of the Private Respondents and sold out the said land with 17 Cottahs tank.
08.07.2010	Private Respondents paid Rupees One Crore Guha Thakurta Family for possession of the entire original premises No. 7, Tiljala Place.
28.12.2021	Respondent No. 5 passed order saying tank measuring 1.7 Cottah.
05.07.2023	Private Respondents displayed signboard and started construction as per Sanction No. 2023070080 dated 05.07.2023.
12.12.2023, 03.02.2024, 07.02.2024, 09.02.2024, 13.02.2024, 16.02.2024, 02.03.2024	Petitioners made written complaint before Respondent Authorities, Sent legal notice to Private Respondents, made complaint to Respondent No. 18 and representation to K.M.C., sent legal notice to K.M.C., sent Demand of Justice to K.M.C., sent Demand-of-Justice to Administrative and Police Authorities, sent to Demand of Justice to Respondent No. 19, 20 and 21





District : Kolkata :

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

Appellate Side

W.P.A. NO. 17769 OF 2024

Md. Humayun Abbas & Ors.

...Petitioners.

-Versus-

The State of West Bengal & Ors.

.....Respondents.

Index

Sl. No.	Particulars	Annexure	Pages
1.	List of dates.		I - IX
2.	Points of Law.		i - iv
3.	Petition.		1 - 62
4.	Copy of two Owner's Share Tax Bill of Corporation of Calcutta in the name of Peary Mohan Banerjee and Nirmal Chandra Bandopadhyay in respect of premises No. 7, Tiljala Place, dated 22.03.1944 and 01.12.1945.	P-1	63 - 64
5.	Copy of the registered Deed under Being No. 208 for the year 1931 with sketch plan showing 17 (Seventeen) Cottahs of tank, along with the copy of its English translation.	P-2	65 - 79



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Sl. No.	Particulars	Annexure	Pages
6.	Copy of the two Tax Bills of Corporation of Calcutta in respect of occupier's share for premises No. 7, Tiljala Place, in the name of Md. Yeakub dated 22.08.1936 and 18.11.1936, and, copy of two Tax Bills of Corporation of Calcutta in respect of occupier's share for premises No. 7, Tiljala Place, in the name of Md. Hashem dated 14.03.1944 and 18.08.1950, and, copy of the Assessment Book of Kolkata Municipal Corporation recorded in the name of Md. Hashem in respect of premises No. 7, Tiljala Place.	P-3	80 - 83-A
7.	Copy of the Hut Sanction Plan date 12.06.1931.	P-4	84 - 84-A
8.	Copy of the registered Sale Deed under Being No. 643 for the year 1945.	P-5	85 - 95
9.	Copy of the registered Partition Deed along with its site plan under Being No. 481 for the year 1990 showing premises No. 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place.	P-6	96 - 118
10.	Copy of the amended plaint of Title Suit No. 53 of 2004 along with all its prayer and schedule as filed by Begum Lutfunnessa before the Learned Court of 9 th Civil Judge, Alipore.	P-7	119 - 128
11.	Copy of the application under Order 23 Rule 3 read with section 151 of the Civil Procedure	P-8	129 - 180



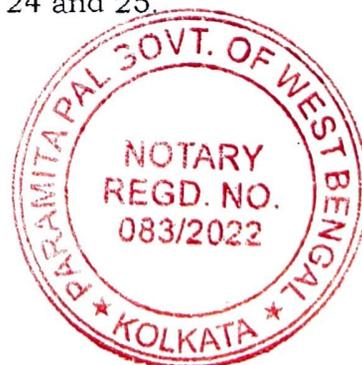
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iii

Sl. No.	Particulars	Annexure	Pages
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Code as filed by the defendants i.e., Guha Thakurta families and the private Respondents No. 22 to 25 as added defendants in Title Suit No. 53 of 2004, along with all its affidavits, and, copy of the notarized Deed of Agreement/ Settlement dated 08.07.2010 executed in between the defendant and added defendants of Title Suit No. 53 of 2004 filed before the Learned Court of 9th Civil Judge, Senior Division, Alipore.

- | | | | |
|-----|---|------|-----------|
| 12. | Copy of the order dated 24.03.2011 passed in Title Suit No. 53 of 2004 by the Learned Civil Judge, Senior Division, 9 th Court Alipore, and, copy of the depositions of defendant No. 1(c) Chinmoy Guha Thakurta and copy of depositions of the added defendant No. 11 Javed Akhtar for self and on behalf of added defendants No. 12, 13 and 14 i.e., Private Respondents No. 22 to 25 as deposed in Title Suit No. 53 of 2004, along with copy of Decree in Title Suit No. 53 of 2004. | P-9 | 181 - 193 |
| 13. | Copy of the four registered Sale Deed Nos. 1240, 1239, 1238 and 1237 all for the year 1998 executed by Begum Lutfunnessa in favour of Private Respondents No. 22, 23, 24 and 25. | P-10 | 194 - 298 |



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iv

Sl. No.	Particulars	Annexure	Pages
14.	Copy of the 8 (Eight) Surrender of Possession instrument executed by the Guha Thakurta families and others.	P-11	299 – 306
15.	Copy of one List of pond from the K.M.C. portal ratifying the pond description in the premises at 7A, Tiljala Place by the Respondent Authority No. 5 being the Director General (E & H) Kolkata Municipal Corporation by the order dated 28.12.2021.	P-12	307
16.	Copy of the Rental Settlement Bill dated 21.09.1940 issued by Nirmal Chandra Banerjee in favour of Mohammed Yeakub and Mohammed Hashem, and, copy of the Death Certificate of Md. Yakoob alias Mohammed Yeakub issued by erstwhile Calcutta Municipal Corporation Health Department showing date of death 20.01.1946.	P-13	308 – 309
17.	Copy of the photograph of the sign board displaying Sanction No. 2023070080 dated 05.07.2023.	P-14	310
18.	Copy of the complaints 12.12.2023, 18.12.2023, 30.12.2023 and 04.01.2024 made by the Petitioner No. 1 before the concerned Respondent Authorities and the West Bengal Pollution Control Board.	P-15	311 – 316





Sl. No.	Particulars	Annexure	Pages
19.	Copy of the legal notice dated 03.02.2024 sent under Speed Post by the Petitioners through Learned Advocate, along with all its postal receipts and postal track reports.	P-16	317 - 332
20.	Copy of the written complaint dated 07.02.2024 made by the Petitioner No. 1 before the Respondent No. 18 i.e., Officer-in-Charge Karaya Police Station against the Private Respondents along with its postal receipt and postal track report.	P-17	333 - 342
21.	Copy of the complaint dated 07.02.2024 sent before the Respondent Authorities of Kolkata Municipal Corporation along with its postal receipts and postal track reports.	P-18	343 - 369
22.	Copy of photographs showing the Private Respondents carrying on their construction work in the alleged impugned premises No. 7A, Tiljala Place, Kolkata - 700017, and, copy of the legal notice dated 09.02.2024 under section 586 of the Kolkata Municipal Corporation Act, 1980, sent before the Kolkata Municipal Corporation Respondent Authorities, along with copies of all postal receipts and postal track reports.	P-19	370 - 406



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Sl. No.	Particulars	Annexure	Pages
23.	Copy of the Demand-of-Justice dated 13.02.2024 sent before the Kolkata Municipal Corporation Respondent Authorities along with copies of all postal receipts and postal track reports.	P-20	407 - 437
24.	Copy of the Demand-of-Justice dated 16.02.2024 sent before the Administrative and Respondent Police Authorities of the State of West Bengal along with copies of all postal receipts and postal track reports.	P-21	438 - 461
25.	Copy of the representation dated 22.02.2024 and copy of the Demand-of-Justice dated 02.03.2024 sent before the Department of Fisheries being Respondent Authorities No. 19, 20 and 21, along with its postal receipts and postal track reports, and, and copy of the Demand-of-Justice dated 02.03.2024 sent before the sent before the Respondent Authority No. 1 being Secretary, Department of Urban Development and Municipal Affairs, Government of West Bengal, along with all postal receipts and postal track reports.	P-22	462 - 504
26.	Copy of the Notice for personal appearance under Memo No. 40/E.O-II/KMC/2024 dated 01.02.2024, File No. Vig/Misc/04/24 Receipt	P-23	505 - 514

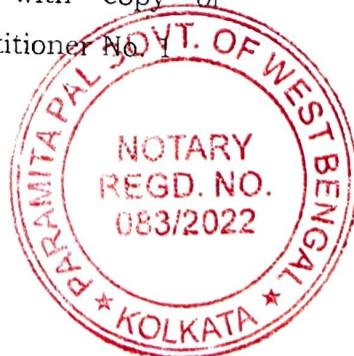




Sl. No.	Particulars	Annexure	Pages
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No. 1085/23 dated 30.12.2023 as sent by the Respondent No. 14 to the Petitioner No. 1 along with the Note-sheet and forwarding letter of the Petitioner No. 1 dated 19.02.2024.

- | | | | |
|-----|---|------|-----------|
| 27. | Copy of the list of building sanction plan granted by the Kolkata Municipal Corporation in respect of Borough VII from date 05.07.2023 to date 17.04.2024 as searched from the official portal of the Kolkata Municipal Corporation, and, copy of the Kolkata Municipal Corporation, Municipal Assessment Book, Land and Buildings in respect of premises No. 7A, Tiljala Place, Kolkata - 700017 showing tank filled land. | P-24 | 515 - 519 |
| 28. | Copy of the letter under Memo No. 697-FI-37016/1/2024-SECTION (FI)-Dept. of FI dated 04.03.2024 sent by the Department of Fisheries, Aquaculture, Aquatic Resources and Fishing Harbours, to the Respondent Authority No. 4 being the Municipal Commissioner, Kolkata Municipal Corporation requesting the Respondent Authority No. 4 to take action in the capacity of competent authority under West Bengal Inland Fisheries Act, 1984 against the Private Respondents, along with copy of forwarding letter sent to the Petitioner No. 1 | P-25 | 520 - 521 |





Sl. No.	Particulars	Annexure	Pages
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under Memo No. 727-FI-37016/1/2024-SECTION (FI)-Dept. of FI dated 06.03.2024 in response to the representation dated 22.02.2024 and Demand-of-Justice dated 02.03.2024.

- | | | | |
|-----|--|------|-----------|
| 29. | Copy of the letter under Memo No. PG/LD/03/2024 dated 07.03.2024 sent by the West Bengal Pollution Control Board to the Respondent Authority No. 3 being the Municipal Commissioner, Kolkata Municipal Corporation requesting the Respondent Authority No. 3 to take action in the matter of the Complaint by the Petitioner No. 1 dated 12.12.2023 against the Private Respondents. | P-26 | 522 |
| 30. | Copy of the Letter under Memo No. 251/UDMA-19011(11)/26/2024-GENL SEC-Dept. of UDMA dated 27.03.2024 sent by the Department of the Respondent No. 1 being Secretary of Department of Urban Development and Municipal Affairs, before the Respondent Authority No. 3 being Municipal Commissioner, Kolkata Municipal Corporation. | P-27 | 523 |
| 31. | Copy of Notarized General Power of Attorney executed by the Petitioners No. 2, 3, 4, 5 in favour of the Petitioner No. 1. | P-28 | 524 - 532 |





District: Kolkata :

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. NO. 17769 OF 2024

Md. Humayun Abbas & Ors.

...Petitioners.

-Versus-

The State of West Bengal & Ors.

.....Respondents.

List of Dates

Date	Particulars
10.02.1931	Nirmal Chandra Bandopadhyay/ Banerjee executed registered Deed under Being No. 208 of 1931 in favour of Md. Hashem being the grandfather of the Petitioners.
12.06.1931	The Corporation of Calcutta, Building Department District - III provided Hut Sanction Plan in favour of the grandfathers of the Petitioners namely Md. Yeakub and Md, Hashem. The Plan shows there is 17 (Seventeen) Cottahs of tank/ pond.
22.08.1936	Corporation of Calcutta issued Occupiers' Share Tax Bill
18.11.1936	in respect of premises No. 7, Tiljala Place, Calcutta in the name of Md. Yeakub being the grandfather of the Petitioners.



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II

Date	Particulars
21.09.1940	Rental Settlement Bill dated 21.09.1940 issued by original landlord Nirmal Chandra Banerjee in favour of Mohammed Yeakub and Mohammed Hashem, the grandfathers of the Petitioners in respect of premises No. 7, Tiljala Place, Calcutta.
22.03.1944 & 01.12.1945	Corporation of Calcutta issued Owners' Share Tax Bill in respect of premises No. 7, Tiljala Place, Calcutta, in respect of Peary Mohan Banerjee and Nirmal Chandra Bandopadhyay/ Banerjee.
14.03.1944 & 18.08.1950	Corporation of Calcutta issued Occupiers' Share Tax Bill in respect of premises No. 7, Tiljala Place, Calcutta in the name of Md. Hashem being the grandfather of the Petitioners.
07.04.1945	Nirmal Chandra Banerjee again sold out premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street, Calcutta to Begum Lutfunnessa comprising of total 1 (One) Bigha 13 (Thirteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft. of property wherein comprised 17 (Seventeen) Cottahs of tank/ pond.
20.01.1946	One of the grandfathers of the Petitioners namely Mohammed Yeakub died.
Year 1962	Begum Lutfunnessa went for permanently residing at East Pakistan and thereafter Bangladesh.



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III

Date	Particulars
Year 1979	Guha Thakurta families file Title Suit No. 216 of 1979 before the Learned Court of 2 nd Subordinate Judge, Alipore, for partition of premises No. 7, Tiljala Place, Calcutta.
04.02.1985	Guha Thakurta Family obtained Final Decree of Partition of premises No. 7, Tiljala Place Calcutta, from Learned Court of 2 nd Subordinate Judge, Alipore.
Year 1990	The Guha Thakurta families made registered Partition Deed No 481 for the year 1990 amongst themselves and converted the original landed property premises 7, Tiljala Place and part of 11, Dilkhusa Street, Calcutta, having 1 (One) Bigha 13 (Thirteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft. of property whercin comprised 17 (Seventeen) Cottahs of tank/ pond, and, converted the property into premises No. 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place, in their names, in the office of the Kolkata Municipal Corporation Respondent Authorities, and, the 17 (Seventeen) Cottahs of tank which existed in the original premises surprisingly got deleted in the Partition Deed.
Year 1993	Begum Lutfunnessa, while residing at Bangladesh, filed Title Suit No. 63 of 1993 before the Learned Court of 2 nd Civil Judge, Senior Division, Alipore, through her constituted attorney Manindra Kumar Ganguly against the Guha Thakurta families praying for Declaration that the Decree of Partition passed in Title Suit No. 216 of



~~SR~~

IV

Date	Particulars
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1979 are nullity and void and not binding upon Begum Lutfunnessa.

Year 1998 During Lis Pendens of Title Suit No. 63 of 199.3 (which subsequently got renumbered as Title Suit 53 of 2004), Begum Lutfunnessa, while residing at Bangladesh, through her constituted attorney Amiruddin Ahmed, without Due Process of Law, executed 4 (Four) registered Sale Deeds under Being Nos. 1240, 1239, 1238 and 1237 all for the year 1998 in favour of the purchasers being the Private Respondents No. 22 to 25 and sold out the entire property of original premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street, Calcutta, under alleged premises No. 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place Kolkata - 700017, wherein the 17 (Seventeen) Cottahs of tank has been deleted in the Schedule inspite of mentioning twice about it in the body of the Sale Deeds.

Year 2004 Title Suit No. 63 of 1993 got transferred before the Learned Court of 9th Civil Judge, Senior Division, Alipore and renumbered as Title Suit No. 53 of 2004, wherein amended plaint was filed by plaintiff Begum Lutfunnessa and stated in the Schedule of the plaint about the presence of tank in the landed property premises.





V

Date	Particulars
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Year 2004 The Private Respondents No. 22 to 25 added themselves as Added Defendants with the defendants of Guha Thakurta Families in Title Suit No. 53 of 2004 and filed counter claim, and, thereafter conjointly filed an application under Order 23 Rule 3 read with section 151 of the Civil Procedure Code for compromise of the suit in between the defendants i.e., Guha Thakurta families and the Private Respondents.

08.07.2010 The Guha Thakurta Families and the Private Respondents No. 22 to 25 filed notarized Deed of Agreement/ Settlement in India Non Judicial Stamp Paper of Rs. 50/- Denomination and stated that the Private Respondents No. 22 to 25 made payment of Rs. 1,00,00,000/- (Rupees One Crore only) to the Defendants i.e., Guha Thakurta families of Title Suit No. 53 of 2004, and, took possession of the entire original landed property premises 7, Tiljala Place and part of 11, Dilkhusha Street, being 1 (One) Bigha 17 (Seventeen) Cottahs of land as stated in the Partition Deed of Guha Thakurta families.

Also the Private Respondents made same prayer in their counter claim as filed by the plaintiff Begum Lutfunnessa in the plaint of Title Suit No. 53 of 2004, and, got the Power of Attorney of the plaintiff Begum Lutfunnessa revoked.





VI

Date	Particulars
24.03.2011	The Learned Court of 9 th Civil Judge, Senior Division, Alipore, passed Decree in Title Suit No. 53 of 2004 by its order dated 24.03.2011.
28.12.2021	Director General (E & H), Kolkata Municipal Corporation being the Respondent No. 5 passed order dated 28.12.2021 ratifying an area of waterbody 1 (One) Cottah 7 (Seven) Chittacks in the alleged impugned premises No. 7A, Tiljala Place, P.S. – Karaya, Kolkata – 700017, which has been artificially made by the Private Respondents No. 22 to 25 in order to covet their filling up of 17 (Seventeen) Cottahs of tank.
05.07.2023	The Private Respondents No. 22 to 25 have displayed signboard in the alleged impugned premises No. 7A, Tiljala Place, P.S. Karaya, Kolkata 700017 for making construction of G+VII residential building under K.M.C. Ward No. 65 Borough VII, Sanction No. 2023070080 dated 05.07.2023 under supervision of Architect Kaushik Abhilash Dasgupta, CA/200/30828, Structural Engineer Subrata Mondal E.S.E. 1/154, Geo Technical Engineer Dr. Sujit Bose G.T/1/12 stating in the signboard the name of the owners being the Private Respondents namely Javed Akhter, Shaheda Parveen, Rehan Javed and Irfan Javed.



VII



Date	Particulars
12.12.2023,	The Petitioner No. 1 Md. Humayun Abbas made written
18.12.2023,	complaint before the concerned Respondent Authorities
30.12.2023,	stating about the illegalities committed by the Private
04.01.2024	Respondents and their collaborators.
02.02.2024	The Petitioners verbally protested and raised objection with the Private Respondents for their committing of illegal activities.
03.02.2024	Petitioners sent legal notice through the Private Respondents No. 22 to 25 under Speed Post.
07.02.2024	Petitioner No. 1 Md. Humayun Abbas made written complaint before the Respondent No. 18 being Officer-in-Charge, Karaya Police Station against the Private Respondents No. 22 to 25.
07.02.2024	Petitioners make further complaint/ representation before the Respondents Authorities of Kolkata Municipal Corporation and prays for taking steps against the Private Respondents No. 22 to 25.
09.02.2024	Petitioners through Learned Advocate sent Legal Notice to the Respondent Authorities of the Kolkata Municipal Corporation.
13.02.2024	Petitioners through Learned Advocate sent Demand-of-Justice to the Respondent Authorities of Kolkata Municipal Corporation.



VIII

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Date	Particulars
16.02.2024	Petitioners through Learned Advocate sent Demand-of-Justice to the Administrative and Respondent Police Authorities of the State of West Bengal.
22.02.2024	Petitioners sent representation to the Respondent Authorities No. 19, 20 and 21 being the Authorities of the Department of Fisheries, State of West Bengal.
02.03.2024	Petitioners through Learned Advocate sent Demand-of-Justice to the Respondent Authorities No. 19, 20 and 21 being the Authorities of the Department of Fisheries, State of West Bengal.
02.03.2024	Petitioners through Learned Advocate sent Demand-of-Justice to the Respondent Authority No. 1 being the Secretary, Department of Urban Development and Municipal Affairs, Government of West Bengal.
01.02.2024	The Vigilance Department sent notice to the Petitioner No. 1 for personal appearance under Memo No. 40/E.O.-II/K.M.C./2024 dated 01.02.2024.
19.02.2024	Petitioner No. 1 files all relevant documents with notesheet and forwarding letter in the office of the Vigilance Authority Kolkata Municipal Corporation being the Respondent Authority No. 14.
04.03.2024	The Department of Fisheries being Respondent and Authorities No. 19, 20 and 21 sent letter to the
06.03.2024	Respondent No. 3 I.e., the Municipal Commissioner.



IX

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Date	Particular
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Kolkata Municipal Corporation to take action against the Private Respondents in the context of complaint of the Petitioner, and, provides intimation of the said letter to the Petitioner No. 1.

- 07.03.2024 The West Bengal Pollution Control Board sent letter to the Respondent Authority No. 3 being the Municipal Commissioner, Kolkata Municipal Corporation requesting the Respondent Authority No. 3 to take action in the matter of the Complaint by the Petitioner No. 1 dated 12.12.2023 against the Private Respondents.
- 27.03.2024 The Department of Respondent No. 1 being Secretary of Department of Urban Development and Municipal Affairs sent letter under Memo No. 251/UDMA-19011(11)/26/2024-GENL SEC-Dept. of UDMA dated 27.03.2024 to the Respondent Authority No. 3 being Municipal Commissioner, Kolkata Municipal Corporation for taking action in the Complaint of the Petitioners against the Private Respondents.



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District: Kolkata:

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. NO. **17769** OF 2024

In the matter of:

An application under Article 226 of
the Constitution of India.

Cause Title

Md. Humayun Abbas & Anr.

.....Petitioners.

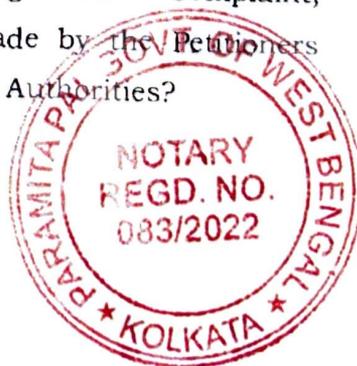
Versus

The State of West Bengal & Ors.

.....Respondents.

Points of Law

1. Whether the policy of the concerned Respondent Authorities are discriminatory, purportedly motivated, arbitrary, illegal and untenable in the eye of law?
2. Whether the Concerned Respondent Authorities have acted illegally and motivatedly in a culpable negligent manner by way of not taking any steps against the Private Respondents No. 22 to 25 and their collaborators by non-considering the Complaint, Representations and Demand-of-Justice made by the Petitioners before the office of the concerned Respondent Authorities?



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3. Whether the in-action on the Part of the Respondent Authorities as alleged herein have seriously abrogated the Petitioners' right protected under relevant Articles of the Constitution of India or not?
4. Whether the in-action on the part of the Respondent Authorities have caused the Private Respondents and its collaborators to become more unreasonable, unfair, and unbecoming in their act of making the unauthorized and illegal construction in the concerned landed property premises violating all norms let down in The Kolkata Municipal Corporation Act, 1980 and its Building Laws, Rules and Regulations as framed thereunder and as amended thereafter and other statutes and laws or not?
5. Whether the ongoing unauthorized and illegal construction of G+VII storied building in the landed property at question by the Private Respondents and its collaborators are illegal or not?
6. Whether the Respondent Authorities should have taken cognizance of the complaints, representations and Demand-of-Justice made by the Petitioner or not?
7. Whether the Respondent Authorities are bound to restrain the Private Respondents from raising unauthorized and illegal construction of building in the landed property premises at question?
8. Whether the Respondent Authorities are bound to initiate demolition proceedings in accordance with The Kolkata Municipal Corporation Act, 1980 and its building laws rules and regulations as framed thereunder along with other statutes and other laws of the land?
9. Whether the Respondent Authorities are obliged to discharge their statutory functions cast upon them by law or not?





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10. Whether the acts and actions of the Respondents are otherwise bad, illegal, perverse and without jurisdiction or not?
11. Whether persons who are domicile of erstwhile East Pakistan and thereafter Bangladesh since the year 1962, and is residing over there for more than 36 (Thirty Six) years can sale landed property in India in the year 1998 through her Constituted Attorney Amiruddin Ahmed (since deceased) to the Private Respondents No. 22 to 25 by 4 (Four) Sale Deeds under Being Nos. 1240, 1239, 1238 and 1237 all for the year 1998?
12. Whether the concerned respondent Authorities are justified in providing mutation to the Private Respondents No. 22 to 25 in respect of premises No. 7A, Tiljala Place, P.S. – Karaya, Kolkata – 700017 which transformed from original premises No. 7, Tiljala Place, and allow the Private Respondents for construction of G+VII storied building therein, upon filling up of 17 (Seventeen) Cottahs of tank/pond, which is described in the several Deeds i.e., Deed No. 208 of 1931, Sale Deed No. 643 of 1945, Sale Deeds Nos. 1240, 1239, 1238 and 1237 all for the year 1998, which is also stated in the erstwhile Corporation of Calcutta site plan, and also mentioned in the Assessment Book of Kolkata Municipal Corporation for the year 1946-47 surprisingly gets transformed into land and the 17 Cottahs of pond vanishes and the private Respondents are continuing with the construction of G+VII multi-storied building therein in the concerned landed property at question?
13. Whether the concerned Respondent Authority No. 5 i.e., the D.G. (E & H) K.M.C. could have passed order dated 28.12.2021 in K.M.C. Ward No. 65 under Borough – VII and ratify for area of pond/ water body 1 Cottah 7 Chittacks in the premises at 7A, Tiljala Place, P.S. - Karaya, Kolkata 700017?





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14. Whether the Kolkata Municipal Corporation could scrutinize the invalid Sale Deeds No. 1240, 1239 and 1238 for the year 1998 and allow the Private Respondents to make construction of multi-storied building in the concerned property throughout whole day and night?
15. Whether Kolkata Municipal Corporation could provide Building Sanction Plan for premises No. 7A, 7B, 7C, 7D, 7E, 7F, Tiljala Place, without looking into the question of 17 Cottahs of tank in original premises No. 7, Tiljala Place, Kolkata - 700017 which thereafter transformed into premises Nos. 7A, 7B, 7C, 7D, 7E, 7F, Tiljala Place?
16. Whether the act of the concerned Respondent Authorities suffers from irregularity, infirmity, procedural impropriety and culpable negligence with complete inaction?
17. Whether the concerned Respondent Authorities have motivatedly and deliberately neglected to discharge their statutory function which tacitly aggravated the Private Respondents to construct the multi-storied building in complete disregard to the statutory mandate?
18. Whether this Hon'ble Court has plenary power and overriding duty under Article 226 of the Constitution of India to see that the public bodies like the concerned Respondent Authorities act in accordance with law and discharge their statutory function?



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District : Kolkata.

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. No: 17769 of 2024

In the matter of:

An application Under Article 226 of
The Constitution of India;

And

In the matter of :

1. Md. Humayun Abbas,
Son of Late Md. Abbas, of 51K,
Shamsul Huda Road, Police Station
- Karaya, Kolkata - 700017, and
also inter alia having address at 7,
Tiljala Place, Police Station - Karaya,
Kolkata - 700017.
2. Sazda Begum,
Wife of Late Ashik, of 20, Tiljala
Lane, Police Station - Karaya,
Kolkata - 700017, and also inter alia
having address at 7, Tiljala Place,
Police Station - Karaya, Kolkata -
700017.
3. Haseeb Anson,
Son of Late Md. Hanif, of 35, Darga
Road, Police Station - Karaya,





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Kolkata - 700017, and also inter alia having address at 7, Tiljala Place, Police Station - Karaya, Kolkata - 700017.

4. Jahangir Alam,
Son of Late Fakhre Alam, of 51K, Shamsul Huda Road, Police Station - Karaya, Kolkata - 700017, and also inter alia having address at 7, Tiljala Place, Police Station - Karaya, Kolkata - 700017.

5. Anisul Mabood,
Daughter of Farrukh Sultana, of 8B/3, Topsia Road, Police Station - Tiljala, Kolkata - 700039, and also inter alia having address at 7, Tiljala Place, Police Station - Karaya, Kolkata - 700017.

No. 2 to 5 represented by their Constituted Attorney Md. Humayun Abbas.

.....Petitioners.

-Versus-

1. The State of West Bengal,
Service through the Secretary,
Department of Urban Development
and Municipal Affairs, having office
at Nagarayan, DF-8, Sector-1, Salt
Lake City, Kolkata - 700064.



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2. The Kolkata Municipal Corporation, represented by the Municipal Commissioner, having office at 5, S. N. Banerjee Road, Police Station - New Market, Kolkata - 700013.
3. The Municipal Commissioner, Kolkata Municipal Corporation, having office at 5, S. N. Banerjee Road, Police Station - New Market, Kolkata - 700013.
4. The Director General (Building), Kolkata Municipal Corporation, having office at 5, S. N. Banerjee Road, Police Station - New Market, Kolkata - 700013.
5. The Director General (E & H), Kolkata Municipal Corporation, having office at 5, S. N. Banerjee Road, Police Station - New Market, Kolkata - 700013.
6. The Dy.C.E. (Civil)/Bldg/North, Borough - VII, Building Department, Kolkata Municipal Corporation, having office at 5, S. N. Banerjee Road, Police Station - New Market, Kolkata - 700013.



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7. The Special Municipal Commissioner (Rev), Assessment Department, Kolkata Municipal Corporation, having office at 5, S. N. Banerjee Road, Police Station - New Market, Kolkata - 700013.
8. The Chief Manager (Rev-South), Assessment Department, Kolkata Municipal Corporation, having office at 5, S. N. Banerjee Road, Police Station - New Market, Kolkata - 700013.
9. The Assessor-Collector (South), Assessment Department, Kolkata Municipal Corporation, having office at 5, S. N. Banerjee Road, Police Station - New Market, Kolkata - 700013.
10. The Deputy Assessor Collector (South), Assessment Department, Ward No. 65, Borough - VII, Building Department, Kolkata Municipal Corporation, having office at 5, S. N. Banerjee Road, Police Station - New Market, Kolkata - 700013.
11. The Executive Engineer (Civil), Borough - VII, Building Department,





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Kolkata Municipal Corporation,
having office at 5, S. N. Banerjee
Road, Police Station - New Market,
Kolkata - 700013.

12. The Assistant Engineer (C), Ward
No. 65, Borough - VII, Building
Department, Kolkata Municipal
Corporation, having office at 5, S. N.
Banerjee Road, Police Station - New
Market, Kolkata - 700013.

No. 9 to 11 also having office at
Kolkata Municipal Corporation
Borough VII Office, 9/1A, A.J.C.
Bose Road, Kolkata - 700017.

13. The Secretary, Ministry of Home
(Police) Department, Government of
West Bengal, Nabanna, 325, Sarat
Chatterjee Road, HRBC Building,
Mandirtala, District- Howrah,
Howrah - 711102.

14. The Inspector General of Police &
Vigilance Authority, Kolkata
Municipal Corporation, having office
at New Market Building, Phase -I
(HUDCO), 8th Floor, 15N, Nellie
Sengupta Sarani, Kolkata - 700087.

15. The Commissioner of Police,
Kolkata Police Head Quarters, Lal





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Bazar, 18, Lal Bazar Street, Kolkata-700001.

16. The Joint Commissioner of Police (Crime), Kolkata Police Head Quarters, Lal Bazar, 18, Lal Bazar Street, Kolkata- 700001.
17. The Deputy Commissioner of Police (South East Division), Park Court, 2, Syed Amir Ali Avenue, Kolkata - 700017.
18. The Officer-in-Charge, Karaya Police Station, 52, Karaya Road, Kolkata - 700019.
19. The Secretary, Department of Fisheries, Government of West Bengal, having office at office at Benfish Tower, 7th & 8th Floor, 31-GN Block, Sector-V, Salt Lake, Kolkata - 700091.
20. The Special Secretary, Department of Fisheries, Government of West Bengal, having office at office at Benfish Tower, 7th & 8th Floor, 31-GN Block, Sector-V, Salt Lake, Kolkata - 700091.
21. The District Secretary, Kolkata, State Fishery Officers' Association,



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having office at Benfish Tower, 3rd Floor, 31-GN Block, Sector-V, Salt Lake, Kolkata – 700091.

.....Respondents.

22. Javed Akhtar,
Son of Late H. M. Ishaque,

23. Shaheda Parveen,
Wife of Javed Akhtar,

24. Rehan Javed,
Son of Javed Akhtar,

25. Irfan Javed,
Son of Javed Akhtar,

No. ~~21~~ to ~~25~~ all having address at 13/2C, Palm Avenue, P.S. – Karaya, District – South 24 Parganas, Kolkata – 700019, and also inter alia having address at 44/D1, Shamsul Huda Road, P.S. – Karaya, Kolkata – 700017.

.....Private Respondents.



To,

The Hon'ble T. S. Sivagnanam, Chief Justice and His Companion Justices of the said Hon'ble Court.

The Humble Petition on behalf of the
Petitioners abovenamed;

Most Respectfully *S H E W E T H*:-

1. That the Petitioners namely Md. Humayun Abbas and Ors. are law abiding Citizens of India, residing at the address as



mentioned in the cause title, and, have locus standi to file this application under Article 226 of the Constitution of India before Your Lordships, and, the Petitioners No. 2 to 5 are represented by their Constituted Attorney being namely Md. Humayun Abbas, son of Late Md. Abbas.

2. That, one Peary Mohan Banerjee and one Nirmal Chandra Bandopadhyay/ Banerjee was the original owner of landed property premises No. 7, Tiljala Place, P.S. – Karaya, Kolkata – 700017 and also premises No. 11, Dilkhusha Street, P.S. – Karaya, erstwhile P.S. – Ballygunge, Kolkata – 700017. Peary Mohan Banerjee died intestate leaving behind two sons namely Anukul Chandra Banerjee and Supratul Chandra Banerjee. Anukul Chandra Banerjee died intestate leaving behind only son Nirmal Chandra Bandopadhyay/ Banerjee, and, by Judgement and Decree of Title Suit No. 60 of 1911 passed by the Learned 1st Court of Sub-Judge, Alipore, in the partition suit, the said Nirmal Chandra Banerjee had been exclusively allotted all that piece and parcel of revenue redeemed homestead land measuring 16 (Sixteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft. along with tank by measurement 17 (Seventeen) Cottahs more or less, being total area of 1 (One) Bigha 13 (Thirteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft. of Khashmahal Dihipanchannagram, Division - 5, Sub-Division H, Touji No. 2833, old Holding No. 260 and thereafter Holding No. 126, now being portion of Municipal premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street, Kolkata – 700017.

Copies of two Owner's Share Tax Bill of Corporation of Calcutta in the name of Peary Mohan Banerjee and Nirmal Chandra Bandopadhyay in respect of premises No. 7, Tiljala Place,



dated 22.03.1944 and 01.12.1945, are collectively annexed herewith and collectively marked as Annexure 'P-1'.

3. That, the landed property premises of Nirmal Chandra Bandopadhyay/ Banerjee was comprised of all that piece and parcel of 1 (One) Bigha 13 (Thirteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft. land with structures therein, and, within the said total landed property premises there had been a pond/ pukur/ water-body comprising of 17 (Seventeen) Cottahs in the premises at 7, Tiljala Place, erstwhile P.S. – Ballygunge, at present Police Station – Karaya, Kolkata – 700017.
4. That, the aforestated Nirmal Chandra Bandopadhyay/ Banerjee by virtue of execution of registered Deed under Being No. 208 for the year 1931 executed one Deed of Patta in favour of the grandfather of the Petitioners namely Sk. Mohammad Hashem alias Md. Hashem, which is recorded in Book – 1, Volume No. 9, pages 126 to 129 registered and recorded in the office of the Sub-Registrar at Sealdah, District – 24 Parganas (erstwhile), West Bengal, having date of registration 10.02.1931, in respect of landed property premises No. 7, Tiljala Place, P.S. – Karaya, Kolkata – 700017, comprising of 1 (One) Bigha 13 (Thirteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft. land with structures therein, and, within the said total landed property premises there had been a pond/ pukur/ water-body comprising of 17 (Seventeen) Cottahs area which is emphatically stated in the instant Deed under Being No. 208 of 1931 and also shown in the sketch plan attached in the said Deed.

Copy of the registered Deed under Being No. 208 for the year 1931 along with the copy of its English translation are



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collectively annexed herewith and collectively marked as Annexure 'P-2'.

5. That, the registered Deed under Being No. 208 for the year 1931 executed by Nirmal Chandra Bandopadhyay in favour of Sk. Mohammad Hashem alias Md. Hashem being the grandfather of the Petitioners was for a period of 15 (Fifteen) years since its execution on the 10th February, 1931.
6. That, Sk. Mohammad Hashem alias Md. Hashem had one brother namely Md. Yeakub, and, both Md. Hashem and Md. Yeakub had been the grandfathers of the Petitioners, and, accordingly Md. Hashem and Md. Yeakub made mutation of their names in the records of erstwhile Corporation of Calcutta and also recorded their names in the Assessment Registrar of the Kolkata Municipal Corporation Department for the year 1946-47 in respect of premises No. 7, Tiljala Place, and obtained Hut Sanction Plan dated 12.06.1931 from the erstwhile Corporation of Calcutta, Building Department Dist. III, and made construction of Hut structures and resided therein in the premises No. 7, Tiljala Place, Calcutta - 700017.

Copy of the two Tax Bills of Corporation of Calcutta in respect of occupier's share for premises No. 7, Tiljala Place, in the name of Md. Yeakub dated 22.08.1936 and 18.11.1936, and, copy of two Tax Bills of Corporation of Calcutta in respect of occupier's share for premises No. 7, Tiljala Place, in the name of Md. Hashem dated 14.03.1944 and 18.08.1950, and, copy of the Assessment Book of Kolkata Municipal Corporation recorded in the name of Md. Hashem in respect of premises No. 7, Tiljala Place, are all collectively annexed herewith and collectively marked as Annexure 'P-3'.



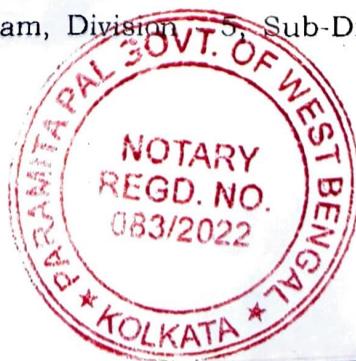
~~12~~

7. That, in the Hut Sanction Plan dated 12.06.1931 provided by Corporation of Calcutta, Building Department Dist. III for premises No. 7, Tiljala Place, as aforementioned, there is also mentioning of sketch of a big tank in the said premises.

Copy of the Hut Sanction Plan dated 12.06.1931 is annexed herewith and marked as Annexure 'P-4'.

8. That, during subsisting of the registered Deed of Patta under Being No. 208 of 1931, executed on 10.02.1931 for a period of 15 (Fifteen) years i.e., upto 10.02.1946, again, in the year 1945 Nirmal Chandra Bandopadhyay alias Nirmal Chandra Banerjee by virtue of registered Sale Deed under Being No. 643 for the year 1945 recorded in Book - 1, Volume - 25, Pages 72 to 80, recorded in the office of the Sub-Registrar of Sealdah, having date of execution 07.04.1945, sold out the aforesaid and Schedule mentioned landed property premises No. 7, Tiljala Place, and part of 11, Dilkhusha Street, Kolkata - 700017, comprising of total 1 (One) Bigha 13 (Thirteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft. land along with 17 (Seventeen) Cottahs of tank therein, to Begum Lutfunnessa, wife of Khan Sahib Moulavi Waheduzzaman of 16, Syed Amir Ali Avenue, P.S. - Ballygunge, District - 24 Parganas, Calcutta.

9. That, also in the registered Sale Deed under Being No. 643 for the year 1945 executed by Nirmal Chandra Banerjee in favour of Begum Lutfunnessa, it is emphatically mentioned in the body of the Sale Deed as well as in the schedule therein, that there is a tank of 17 (Seventeen) Cottahs in the premises at 7, Tiljala Place, Calcutta, in the total land property premises of 1 (One) Bigha 13 (Thirteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft. of Khashmahal Dihipanchannagram, Division 5, Sub-Division H,



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Touji No. 2833, old Holding No. 260 and thereafter Holding No. 126, now being portion of Municipal premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street.

Copy of the registered Sale Deed under Being No. 643 for the year 1945 is annexed herewith and marked as Annexure 'P-5'.

10. That, in the Sale Deed under Being No. 643 of 1945, wherein Nirmal Chandra Bandopadhyay sold out the entire premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, Kolkata - 700017 to Begum Lutfunnessa, therein in the instant Sale Deed it has been mentioned that Sk. Mohammad Hashem has been tenant under Nirmal Chandra Bandopadhyay and that Begum Lutfunnessa should take rent from Sk. Mohammad Hashem as stated in the registered Patta executed by Nirmal Chandra Bandopadhyay in favour of Sk. Mohammad Hashem in the year 1931, as stated supra.
11. That, the Petitioners state that, Begum Lutfunnessa after purchase of premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, by virtue of registered Sale Deed under Being No. 643 for the year 1945, as stated supra, Begum Lutfunnessa on or about the year 1962 migrated to East Pakistan (at present Bangladesh), to live with her husband Khan Sahib Moulavi Waheduzzaman at Dhaka, and, as Begum Lutfunnessa could not be in continuous and uninterrupted possession of premises No. 7. Tiljala Place and Part of 11, Dilkhusha Street, presently Kolkata - 700017, as consequence and upon efflux of time, the premises No. 7. Tiljala Place and Part of 11, Dilkhusha Street had been occupied by Guha Thakurta families and others being namely Mousumi Guha Thakurta, Kaushik Guha Thakurta, Shouvik Guha Thakurta, Chinmoy Guha Thakurta, Smt. Anita Basu, Rittam Guha





Thakurta, Smt. Bina Guha Thakurta, Tirthankar Guha Thakurta, Smt. Sujata Guha Thakurta, Smt. Sanjukta Guha Thakurta, Bimalendu Ghosh, Atish Ghosh, Smt. Swati Ghosh, Jagannath Guha Thakurta, Utsav Guha Thakurta, Smt. Shipra Ghosh, Smt. Suvra Roy, Biresh Guha Thakurta, Smt. Sanjukta Guha Thakurta, Smt. Indra Bose, Subir Bose, Kaustav Chatterjee.

12. That, thereafter the aforementioned Guha Thakurta families filed Title Suit No. 216 of 1979 before the Learned Court of 2nd Subordinate Judge, Alipore, Sri S. B. Aich, and, thereafter filed compromise petition in Title Suit No. 216 of 1979 and obtained Final Decree dated 4th Day of February, 1985 in respect of 1 (One) Bigha 17 (Seventeen) Cottahs of property I the concerned aforementioned premises at 7, Tiljala Place, Police Station - Karaya, from the said Learned Court. Then the said Guha Thakurta families divided and partitioned the concerned original premises No. 7, Tiljala Place, Calcutta, into premises No. 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place, along with its site plan and registered and recorded the partition in Book No. 1, Volume No. 12, pages 71 to 90 under Being No. 481 for the year 1990 in the office of the Additional District Sub-Registrar, Sealdah, South 24 Parganas and made mutation of the alleged premises No. 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place in their named in the office of the concerned Respondent Authorities of Kolkata Municipal Corporation.

Copy of the registered Partition Deed along with its site plan under Being No. 481 for the year 1990 showing premises No. 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place, is annexed herewith and marked as Annexure 'P-6'.

13. That, as such, Begum Lutfunnessa while residing at Dhaka, Bangladesh, since the year 1962, after a lapse of more or less 31





(Thirty One) years, in the year 1993 Begum Lutfunnessa represented by her Constituted Attorney namely Sri Manindra Kumar Ganguly, son of Late Dharendra Nath Ganguly of Ganganagar, P.S. – Airport, filed suit for Declaration and injunction being Title Suit No. 63 of 1993 before the Learned Court of 2nd Civil Judge, Senior Division, Alipore which got transferred before the Learned Court of 9th Civil Judge, Senior Division, Alipore, and the plaint of the instant Title Suit got amended and renumbered as Title Suit No. 53 of 2004 wherein Begum Lutfunnessa stated that in Title Suit No. 216 of 1979 as stated supra, the aforesaid Guha Thakurta families practised fraud upon the Court in obtaining the alleged Decree in Title Suit No. 216 of 1979. The prayer of Begum Lutfunnessa as prayed for in the amended plaint of Title Suit No. 53 of 2004 is reproduced hereunder :

- a) For a decree for declaration that the plaintiff is the absolute owner of the suit property, described in the schedule below;
- b) For a decree for declaration that the Partition Deed dated 08.04.81 and 11.02.83 passed in Title Suit No. 216 of 1979 of 2nd Sub-Judges' Court, Alipore, are nullity and void and not binding upon the plaintiff;
- c) For a decree for permanent injunction restraining the defendants from selling, transforming or in any way alienating the suit property and/or in any way causing damage or changing the nature and character of the suit property, described in the schedule below and/or restraining the defendants from disturbing the possession of the plaintiff in the schedule property described in the schedule below;
- iv) for temporary in terms of the prayer until above;



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v) for receiver;

vi) for costs;

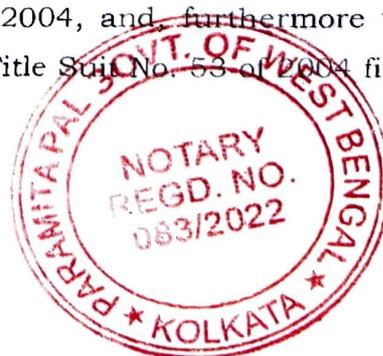
vii) for such other relief or reliefs to which the plaintiff is entitled to law and in equity.

14. That, The schedule of the amended plaint of Title Suit No. 53 of 2004 as filed by Begum Lutfunnessa before the Learned Court of 9th Civil Judge, Senior Division, Alipore is also reproduced hereunder :

'All that piece and parcel of land and tank measuring more or less 1 Bigha 13 Cottahs 2 Chittacks 13 sq. ft. together with 2 storied building standing thereon in Dihi Panchannagram, Division-5, sub-Division-1, Touji No. 2833, being Holding No. 126, formerly 360 within the limits of the Calcutta Municipal Corporation being portion of premises no. 7, Tiljala Place and part of 11, Dilkhusa Street, P.S. Karaya formerly Ballygunge, Calcutta.'

Copy of the amended plaint of Title Suit No. 53 of 2004 along with all its prayer and schedule as filed by Begum Lutfunnessa before the Learned Court of 9th Civil Judge, Alipore, is annexed herewith and marked as Annexure 'P-7'.

15. That, in title Suit No. 53 of 2004 the Private Respondents No. 22 Javed Akhtar, 23 Shaheda Parveen, 24 Rehan Javed and 25 Irfan Javed, added themselves as Added Defendants No. 11, 12, 13 and 14, respectively, and, colluded and connived and formed conspiracy with the Defendants of Guha Thakurta families and filed Counter Claim and filed same prayer as prayed for by Begum Lutfunnessa in Title Suit No. 53 of 2004, and, furthermore the Private Respondents No. 22 to 25 in Title Suit No. 53 of 2004 filed

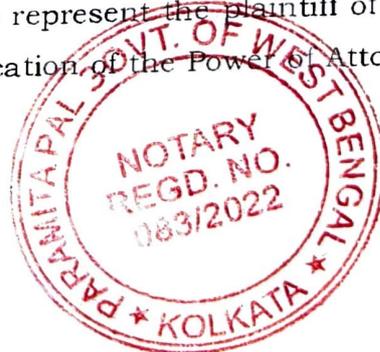




an application under Order 23 Rule 3 read with section 151 of the Civil Procedure conjointly with other defendants being the Guha Thakurta families and others, and the Private Respondents along with other defendants filed separate affidavits, along with one notarized Deed of Agreement/ Settlement dated 08.07.2010 executed upon Rupees Fifty India Non Judicial stamp paper, wherein the Private Respondents No. 22 to 25 i.e., the added defendants in Title Suit No. 53 of 2004 made payment of Rupees One Crore to the defendants Guha Thakurta families and in lieu of the same the Guha Thakurta families vacated the premises No. 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place, P.S. – Karaya, Kolkata - 700017 being the original premises No. 7, Tiljala Place and part of 11, Dilkhusha Street.

Copy of the application under Order 23 Rule 3 read with section 151 of the Civil Procedure Code as filed by the defendants i.e., Guha Thakurta families and the private Respondents No. 22 to 25 as added defendants in Title Suit No. 53 of 2004, along with all its affidavits, and, copy of the notarized Deed of Agreement/ Settlement dated 08.07.2010 executed in between the defendant and added defendants of Title Suit No. 53 of 2004 filed before the Learned Court of 9th Civil Judge, Senior Division, Alipore, are all collectively annexed herewith and collectively marked as Annexure 'P-8'.

16. That, the Private Respondents No. 22 to 25 as added defendants filed the counter claim in Title Suit No. 53 of 2004 before the Learned Court praying for same reliefs as claimed by the plaintiff Begum Lutfunnessa, and agitated that the constituted attorney of the plaintiff Begum Lutfunnessa namely Manindra Ganguly has got no locus standi to represent the plaintiff of Title Suit No. 53 of 2004 in view of revocation of the Power of Attorney



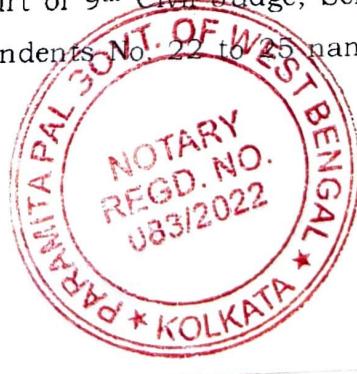


and by way of counter claim in the written statement the added defendants claimed the same relief in the instant title suit. Whereas the original defendants No. 1 to 21 of the instant title suit i.e., Guha Thakurta families did not file any reply of counter claim as set up by the Private Respondents/ added defendants in Title Suit No. 53 of 2004, and, in terms of Agreement/ Settlement Deed dated 08.07.2010 as stated supra, the defendants No. 1 to 21 i.e., Guha Thakurta families and the Private Respondents No. 22 to 25 being added defendants No. 11 to 14 mutually settled their disputed amicably in Title Suit No. 53 of 2004 making the compromise petition and the Deed of Settlement as part of the decree.

17. That, the Private Respondents No. 22 to 25 most cunningly created vacuum as absence of plaintiff in Title Suit No. 53 of 2004 and in Title Suit No. 53 of 2004 the Learned Court of 9th Civil Judge, Senior Division, Alipore Sri Sanjay Kumar Sharma passed Decree by its order dated 24.03.2011.

Copy of the order dated 24.03.2011 passed in Title Suit No. 53 of 2004 by the Learned Civil Judge, Senior Division, 9th Court Alipore, and, copy of the depositions of defendant No. 1(c) Chinmoy Guha Thakurta and copy of depositions of the added defendant No. 11 Javed Akhtar for self and on behalf of added defendants No. 12, 13 and 14 i.e., Private Respondents No. 22 to 25 as deposed in Title Suit No. 53 of 2004, along with copy of Decree in Title Suit No. 53 of 2004, are collectively annexed herewith and collectively marked as Annexure 'P-9'.

18. That, thereafter, during lis pendens of Title Suit No. 63 of 1993 renumbered as Title Suit No. 53 of 2004 which got Decreed on 24.03.2011 by the Learned Court of 9th Civil Judge, Senior Division, Alipore, the Private Respondents No. 22 to 25 namely



Javed Akhtar, Shaheda Parveen, Rehan Javed and Irfan Javed, respectively, have furthermore conspired amongst themselves with Begum Lutfunnessa, upon removal of the aforementioned Guha Thakurta families being the defendants in Title Suit No. 53 of 2004 from the aforementioned concerned landed property, and, Begum Lutfunnessa being a domicile of erstwhile East Pakistan and thereafter Bangladesh since the year 1962, most illegally through her Constituted Attorney Amiruddin Ahmed son of Late Haji Nasimuddin Ahmed of 7/2F, Miajan Ostagar Lane, Police Station - Karaya, Kolkata - 700017, executed 4 (Four) registered Sale Deeds, under Being No. 1240 for the year 1998 in favour of the Private Respondent No. 22 Javed Akhtar, registered Sale Deed under Being No. 1239 for the year 1998 in favour of Private Respondent No. 25 Irfan Javed, registered Sale Deed No. 1238 for the year 1998 in favour of Private Respondent No. 23 Shaheda Parveen, and, registered Sale Deed No. 1237 for the year 1998 in favour of Private Respondent No. 24 Rehan Javed, and as such, Begum Lutfunnessa being domicile of foreign country i.e., erstwhile East Pakistan and at present Bangladesh for period of 36 (Thirty Six) years, since the year 1962, sold the entire total 1 (One) Bigha 13 (Thirteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft. land with 2 storied building comprising of 17 (Seventeen) Cottahs of tank/ pukur therein in the premises at 7, Tiljala Place and part of premises No. 11, Dilkhusha Street, under present Police Station - Karaya, Kolkata - 700017 in favour of the Private Respondents No. 22, 23, 24 and 25, and, each Private Respondents purchasing $\frac{1}{4}$ th (One-Fourth) share of total area of 1 (One) Bigha 13 (Thirteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft. land with 2 (Two) storied building in the alleged newly mutated and renumbered municipal premises No. 7, 7A, 7B, 7C and 7D, Tiljala Place and part of premises No. 11, Dilkhusha



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Street, Police Station - Karaya, Calcutta - 700019 as allegedly stated in the said four Sale Deeds.

19. That, the Petitioners state that in the concerned Sale Deeds No. 1240, 1239, 1238 and 1237 all for the year 1998 which are executed by Begum Lutfunnessa, through her Constituted Attorney in favour of the Private Respondents No. 22, 23, 24 and 25 in respect of the original premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street and thereafter collusively alleged newly mutated premises 7, 7A, 7B, 7C and 7D, Tiljala Place, present Police Station - Karaya, Kolkata - 700017, it is written and stated in page No. 6 and page No. 10 in each and all Sale Deeds No. 1240, 1239, 123 and 1237 all for the year 1998, that, Nirmal Chandra Banerjee sold, transferred and conveyed to Begum Lutfunnessa land measuring 16 (Sixteen) Cottahs 2 (Two) Chittacks and 13 (Thirteen) sq. ft. more or less, including a tank by measurement 17 (Seventeen) Cottahs more or less, and having total area of 1 (One) Bigha 13 (Thirteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft. of property in the premises No. 7, Tiljala Place and part of premises no. 11, Dilkhusha Street (formerly portion of premises No. 7, Tiljala 2nd Lane) previous Police Station Ballygunge, present Police Station - Karaya, Calcutta - 700017, erstwhile District - 24 Parganas, included within the Khasmahal Dihipanchannagram having Division - 5, Sub-Division - H, Touji No. 2833, Old Holding No. 260, New Holding No. 126, now being part of premises No. 11, Dilkhusha Street, Calcutta, surprisingly in the Schedule of the aforementioned Sale Deeds No. 1240, 1239, 1238 and 1237 all for the year 1998 the Vendor Begum Lutfunnessa deleted the description of the existence of 17 (Seventeen) Cottahs of tank/pukur in the concerned premises and mentioned about the alleged premises No. 7, 7A, 7B, 7C and 7D,





Tiljala Place and part of premises No. 11, Dilkhusha Street, together with two old 2-storied old brick built building and cunningly sold out the concerned property to the Private Respondents No. 22, 23, 24 and 25, respectively, as stated supra.

20. That, the Petitioners state that in the four Sale Deed Nos. 1240, 1239, 1238 and 1237 all for the year 1998 Begum Lutfunnessa as vendor, for sale of the concerned original landed property premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street, Calcutta, sold out transformed and alleged premises No. 7, 7A, 7B, 7C, 7D, Tiljala Place and part of premises No. 11, Dilkhusha Street, Police Station - Karaya, Calcutta, to the Private Respondents No. 22, 23, 24 and 25 stating in the aforementioned Sale Deeds that at the time of execution of Sale Deed in the year 1998 through her Constituted Attorney Amiruddin Ahmed as stated supra, that presently she had been residing at premises No. 10/1, Toyenbi Circular Road, Motijheel Commercial Road, Dhaka, Bangladesh, and, at paragraph No. 11 of the aforementioned four Sale Deeds Begum Lutfunnessa have emphatically stated that in the year 1962 she went for East Pakistan now Bangladesh to live with her husband.

Copy of the four registered Sale Deed Nos. 1240, 1239, 1238 and 1237 all for the year 1998 executed by Begum Lutfunnessa in favour of Private Respondents No. 22, 23, 24 and 25, are all collectively annexed herewith and collectively marked as Annexure 'P-10'.

21. That, the Petitioners state that in the year 1945 Begum Lutfunnessa had purchased the original landed property premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street which comprised of land measuring 16 (Sixteen) Cottahs 2 (Two)





Chittacks and 13 (Thirteen) sq. ft. more or less, including a tank by measurement 17 (Seventeen) Cottahs more or less, and having total area of 1 (One) Bigha 13 (Thirteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft. of property from Nirmal Chandra Banerjee by virtue of registered Sale Deed under Being No. 643 for the year 1945, as stated supra, while residing at premises No. 16, Syed Amir Ali Avenue, P.S. - Ballygunge, District - 24 Parganas, and, Begum Lutfunnessa never resided in the purchased premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street, and, the concerned landed property was occupied by the Guha Thakurta family, and, Begum Lutfunnessa while residing at East Pakistan in the year 1962 thereafter Bangladesh, after lapse of 36 (Thirty Six) years cannot sell out the concerned landed properties to the Private Respondents No. 21, 22, 23 and 24 through her Constituted Attorney Amiruddin Ahmed without Due Process of Law.

22. That, the aforementioned entire Guha Thakurta families have most illegally made execution of registered Partition Deed Being No. 481 for the year 1990 upon filing fabricated suit and falsely obtaining order from the Courts of Law, as stated supra. Neither the Guha Thakurta families nor their predecessors were owners of the original landed property premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street, at any material point of time. The Guha Thakurta families just criminally trespassed and encroached in the original landed property premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street upon filing fabricated Title Suit No. 216 of 1979 in civil courts of law, as stated supra, and most illegally obtained orders and made partition of the purchased landed property premises of Begum Lutfunnessa which is bad in law.





Chittacks and 13 (Thirteen) sq. ft. more or less, including a tank by measurement 17 (Seventeen) Cottahs more or less, and having total area of 1 (One) Bigha 13 (Thirteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft. of property from Nirmal Chandra Banerjee by virtue of registered Sale Deed under Being No. 643 for the year 1945, as stated supra, while residing at premises No. 16, Syed Amir Ali Avenue, P.S. - Ballygunge, District - 24 Parganas, and, Begum Lutfunnessa never resided in the purchased premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street, and, the concerned landed property was occupied by the Guha Thakurta family, and, Begum Lutfunnessa while residing at East Pakistan in the year 1962 thereafter Bangladesh, after lapse of 36 (Thirty Six) years cannot sell out the concerned landed properties to the Private Respondents No. 21, 22, 23 and 24 through her Constituted Attorney Amiruddin Ahmed without Due Process of Law.

22. That, the aforementioned entire Guha Thakurta families have most illegally made execution of registered Partition Deed Being No. 481 for the year 1990 upon filing fabricated suit and falsely obtaining order from the Courts of Law, as stated supra. Neither the Guha Thakurta families nor their predecessors were owners of the original landed property premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street, at any material point of time. The Guha Thakurta families just criminally trespassed and encroached in the original landed property premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street upon filing fabricated Title Suit No. 216 of 1979 in civil courts of law, as stated supra, and most illegally obtained orders and made partition of the purchased landed property premises of Begum Lutfunnessa which is bad in law.





23. That, the Petitioners state that, Begum Lutfunnessa in order to restrain the Guha Thakurta families from usurping her purchased original landed property premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street and filed Title Suit No. 63 of 1993 thereafter renumbered as Title Suit No. 53 of 2004 which got decreed on 24.03.2011 from the Learned Court of 9th Civil judge, Senior Division, Alipore, and during lis pendens of the said Title Suit No. 63 of 1993 Begum Lutfunnessa in the year 1998 sold out the original landed property premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street transformed into premises No. 7, 7A, 7B, 7C and 7D, Tiljala Place and part of premises No. 11, Dilkhusha Street, vanishing the 17 (Seventeen) Cottahs of tank from the original landed property premises and deleting the description of the tank in the Schedule of the Sale Deed Nos. 1240, 1239, 1238 and 1237 all for the year 1998, sold out the concerned landed property. The Sale Deeds themselves shall decipher about the illegalities of Begum Lutfunnessa and the Private Respondents.

24. That, it is pertinent to mention that the addition of parties of added defendants No. 11, 12, 13, 14 in Title Suit No. 53 of 2004, as stated supra, by the Private Respondents and their filing of counter claim with same prayers of the plaintiff in Title Suit No. 53 of 2004, and, ousting the plaintiff Begum Lutfunnessa and thereafter filing joint compromise petition in the Title Suit No. 53 of 2004 along with Deed of Agreement/ Settlement being the notarial Deed of Settlement dated 08.07.2010 wherein the Private Respondents No. 22, 23, 24 and 25 obtained full vacant possession of allegedly transformed landed property premises Nos. 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place, Kolkata - 700017, upon payment of Rs. 1,00,00,000/- (Rupees One Crore only) to the Guha Thakurta





families, and filling up of the 17 (Seventeen) Cottahs of tank which was present in the original landed property premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street, and, admission of the said tank has been made all along in the several Sale Deeds as stated supra, points out the nexus of illegal activities conjointly committed by Guha Thakurta families, Begum Lutfunnessa and all concerned for sub-serving the purpose of the Private Respondents No. 22 to 25 who are making day and night construction of multi-storied buildings in the impugned landed property premises No. 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place, Kolkata - 700017, are all illegal activities which are bad in law. The said Guha Thakurta Families and others who allegedly made partition of the original landed property premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, and, transformed from original landed property premises into 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place, P.S. - Karaya, Kolkata - 700017 have executed surrender of possession instruments in favour of the Private Respondents and handed over possession of the entire transformed premises No. 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place, P.S. - Karaya, Kolkata 700017 to the private Respondents, wherein it has been emphatically stated that the entire transformed premises No. 7A to 7F, Tiljala Place, P.S. - Karaya, Kolkata - 700017 are all portion of mother premises No. 7, Tiljala Place, Kolkata - 700017.

Copy of the 8 (Eight) Surrender of Possession instrument executed by the Guha Thakurta families and others are all collectively annexed herewith and collectively marked as Annexure 'P-11'.

25. That, the Petitioners state that, Begum Lutfunnessa purchased the landed property premises at 7, Tiljala Place and part of premises No. 11, Dilkhusha Street, Calcutta comprising of an



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total area 1 (One) Bigha 13 (Thirteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft. wherein there had been a pond/ tank comprising of 17 (Seventeen) Cottahs which are being emphatically mentioned in so many Sale Deeds as described supra. The aforementioned registered Sale Deeds under Being No. 1240, 1239, 1238 and 1237 all for the year 1998 executed by Begum Lutfunnessa in favour of the Private Respondents No. 22 to 25 mentioning the alleged premises No. 7A, 7B, 7C and 7D, instead of original premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusa Street, and motivatedly deleted the mentioning of tank in the schedule of the aforementioned 4 (Four) Sale Deeds executed in favour of the Private Respondents during lis pendens of Title Suit No. 63 of 1993 renumbered as Title Suit No. 53 of 2004 which got Decreed on 24.03.2011 from the Learned Court of 9th Civil Judge, Senior Division, Alipore, is ample proof of nexus of illegal activities conjointly committed by Begum Lutfunnessa, the Guha Thakurta families and the Private Respondents for the purpose of sub-serving the illegal cause of filling up of the 17 (Seventeen) Cottahs of tank in the original premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusa Street, and allegedly mutating the original premises into premises Nos. 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place, and, thereafter clandestinely making payment of Rs. 1,00,00,000/- (Rupees One Crore only) by the Private Respondents No. 22 to 25 to the Guha Thakurta Families as stated supra, and making the Deed of Agreement/ Settlement and transaction of monetary amount recorded in 50/- (Fifty Rupees) India Non Judicial Stamp, and, made presentation of the same before the concerned Learned Court and obtaining Decree thereby in Title Suit No. 53 of 2004, are all part of coordinated, preordained conspiracy and illegal activities by all concerned Respondent Authorities and Private Respondents and all concerned only for



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furthering the cause of illegal construction of multi-storied building in the huge and substantial original landed property premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street, by the Private Respondents No. 22 to 25.

26. That, the Kolkata Municipal Corporation Respondent Authority No. 5 being the Director General (E & H) of Kolkata Municipal Corporation further aggravated the illegal activities of the Private Respondents No. 22 to 25 and accorded sanction dated 28.12.2021 for ratifying an area of water body of 1 (One) Cottah 7 (Seven) Chittacks in the premises at 7A, Tiljala Place, P.S. - Karaya, Kolkata - 700017, that which has been artificially made by the concerned Private Respondents in order to covet and proof innocence in the clandestine activities of the Private Respondents No. 22 to 25 and all concerned Respondents Authorities filling up the concerned 17 (Seventeen) Cottahs of tank in the concerned premises at 7, Tiljala Place and part of premises No. 11, Dilkhusha Street.

Copy of one List of pond from the K.M.C. portal ratifying the pond description in the premises at 7A, Tiljala Place by the Respondent Authority No. 5 being the Director General (E & H) Kolkata Municipal Corporation by the order dated 28.12.2021 is annexed herewith and marked as Annexure 'P-12'.

27. That, the two grandfathers of the Petitioners namely Mohammed Yeakub and Mohammed Hashem who obtained rental settlement of Municipal Premises No. 7, Tiljala Place by registered Being No. 208 from the original owner Nirmal Chandra Bandopadhyay/ Banerjee, made construction of premises upon obtaining of Sanction Plan from the erstwhile Corporation of Calcutta, as stated supra. The constructed residential place in



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accordance to building plan existed till November 2023, and, the Petitioners and the Petitioners residing in their nearby premises at 51K, Shamsul Huda Road, Kolkata - 700017, all along looked after and took care of the residential premises made by their said grandfathers and one of the grandfather Mohammad Yeakub died in the year 20.01.1946. The Petitioners have diligently found out the receipt of rental settlement system provided by the original landlord Nirmal Chandra Bandopadhyay/ Banerjee to Mohammed Yeakub and Mohammed Hashem being Bill No. 11 of 1937 dated 21.09.1940.

Copy of the Rental Settlement Bill dated 21.09.1940 issued by Nirmal Chandra Banerjee in favour of Mohammed Yeakub and Mohammed Hashem, and, copy of the Death Certificate of Md. Yakoob alias Mohammed Yeakub issued by erstwhile Calcutta Municipal Corporation Health Department showing date of death 20.01.1946, are collectively annexed herewith and marked as Annexure - 'P-13'.

28. That, the Petitioners all of a sudden noticed that the Private Respondents No. 22 to 25 partly demolished the existing Hut structures of the Petitioners and thereupon displayed one sign board in the alleged premises No. 7A, Tiljala Place, P.S. - Karaya, Kolkata - 700017 wherein it is written that the concerned Private Respondents are making construction of G+VII storied residential building in the said premises under K.M.C. Ward No. 65, Borough VII, by Sanction No. 2023070080 dated 05.07.2023 under the supervision of Architect Kaushik Abhilash Dasgupta CA/200/30828, Structural Engineer Subrata Mondal E.S.E. 1/154, Geo Technical Engineer Dr Sujit Bose G.T/1/12 stating in the sign board the name of the owners being Private Respondents Javed Akhter, Shaheda Parveen, Rehan Javed and Irfan Javed.



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Copy of the photograph of the sign board displaying Sanction No. 2023070080 dated 05.07.2023 is annexed herewith and marked as Annexure 'P-14'.

29. That, as such, the Petitioner No. 1 Md. Humayun Abbas on date 12.12.2023, 18.12.2023, 30.12.2023 and 04.01.2024 made complaints before the concerned Respondent Authorities and stated about the illegalities committed conjointly by the Private Respondents and others. The concerned Respondent Authorities inspite of receiving the aforementioned complaints are sitting tight about the matter with complete inaction.

Copy of the complaints made by the Petitioner No. 1 before the concerned Respondent Authorities are all collectively annexed herewith and collectively marked as Annexure 'P-15'.

30. That, on 02.02.2024 at about 11:00 a.m. the Petitioners verbally protested and raised objection with the Private Respondents No. 22 to 25 for stopping their illegal construction of building in the alleged premises No. 7A, Tiljala Place, Kolkata - 700017 according to display as made in the sign board of the Private Respondents, the Private Respondents No. 22 to 25 along with their several men and agents abused the Petitioners with filthy languages and seriously threatened the Petitioners with grievous injury and causing death of the Petitioners and their family members, in the event the Petitioners further dare to take any steps for stopping the construction of multi-storied building of the Private Respondents No. 22 to 25 in the alleged landed property premises No. 7A, Tiljala Place, Kolkata - 700017.

31. That, as such the Petitioners have sent legal notice dated 03.02.2024 to the Private Respondents No. 22, 23, 24 and 25 and



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urged the Private Respondents to stop all building constructions forthwith in the original landed property premises No. 7, Tiljala Place and Part of 11, Dilkhusha Street, which allegedly got transformed into premises No. 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place, and, to stop forthwith the present multi-storied building construction carried on in the alleged premises No. 7A, Tiljala Place, P.S. Karaya, Kolkata - 700017 by the Private Respondents No. 22 to 25 upon displaying of sign board as stated supra. The Private Respondents No. 22 to 25 received the legal notice dated 03.02.2024 from the Petitioners and persistently continued with their illegal activities of multi-storied construction of building in the alleged premises No. 7A, Tiljala Place, Kolkata - 700017 within the aforementioned original landed property premises.

Copy of the legal notice dated 03.02.2024 sent under Speed Post by the Petitioners through Learned Advocate, along with all its postal receipts and postal track reports are collectively annexed herewith and collectively marked as Annexure 'P-16'.

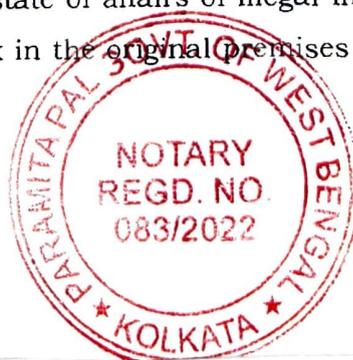
32. That, as the Private Respondents No. 22 to 25 did not desist from carrying out illegal construction of multi-storied building in the alleged premises No. 7A, Tiljala Place, Kolkata - 700017 within the original premises No. 7, Tiljala Place and Part of 11, Dilkhusha Street wherein the 17 (Seventeen) Cottahs of tank or pukur existed, as such, the Petitioner No. 1 made written complaint dated 07.02.2024 against the Private Respondents before the Respondent No. 18 being the Officer-in-Charge, Karaya Police Station, Kolkata - 700017 and prayed for taking steps against the Private Respondents and for providing Police protection and Police help to the Petitioners and their family members. The Respondent Authority No. 18 i.e., Officer-in-Charge, Karaya Police Station inspite of receiving the complaint dated 07.02.2024 did not take



any action purportedly and motivatedly against the Private Respondents for their such illegal activities as stated supra.

Copy of the written complaint dated 07.02.2024 made by the Petitioner No. 1 before the Respondent No. 18 i.e., Officer-in-Charge Karaya Police Station against the Private Respondents along with its postal receipt and postal track report are collectively annexed herewith and collectively marked as Annexure 'P-17'.

33. That, the Petitioners state that, the Kolkata Municipal Corporation and its concerned authorities have bounden duty for making all investigation and inspections and taking action and providing all sanctions in respect of all acts, activities and affairs that are carried on within the jurisdiction of Kolkata Municipal Corporation, and, the Private Respondents No. 22 to 25 along with their concerned collaborators have perpetrated the crime of filling up 17 (Seventeen) Cottahs of tank/ pond area in the original premises No. 7, Tiljala Place and Part of 11, Dilkhusha Street that which has been emphasized in several Sale Deeds and documents as stated supra and made annexures hereto in this application, and thereafter the Private Respondents along with its collaborators in preordained and oriented manner manufactured premises No. 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place, P.S. - Karaya, Kolkata - 700017, and, thereafter the Private Respondents in collusion and connivance with all concerned have mutated their names in respect of premises No. 7A, Tiljala Place, Kolkata - 700017 and have started construction of G+VII storied multi-storied building without Due Process of Law. As such, the Petitioners have also sent their representation dated 07.02.2024 before the Respondent Authorities of Kolkata Municipal Corporation, under speed post, complaining about the all state of affairs of illegal filling up of 17 (Seventeen) Cottahs of tank in the original premises No. 7, Tiljala



Place and Part of 11, Dilkhusha Street, and thereafter alleged creation of premises No. 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place, and construction of multi-storied building in the concerned premises by the concerned Private Respondents No. 22 to 25. The concerned Kolkata Municipal Corporation Respondent Authorities inspite of receiving the complaint dated 07.02.2024 from the Petitioners, did not take any steps against the Private Respondents No. 22 to 25 and failed to redress the grievances of the Petitioners.

Copy of the complaint dated 07.02.2024 sent before the Respondent Authorities of Kolkata Municipal Corporation along with its postal receipts and postal track reports are collectively annexed herewith and collectively marked as Annexure 'P-18'.

34. That, the Petitioners state that, as the Kolkata Municipal Corporation Respondent Authorities as well as the Respondent Police Authorities of the State are purportedly and motivatedly sitting tight over the matter with complete inaction and folded hands, therefore, the Private Respondents No. 22 to 25 and their men and agents are working day and night and making construction of multi-storied building without any hesitation, and as such, the Petitioners have sent legal notice dated 09.02.2024 through Learned Advocate, under Speed Post, before the Kolkata Municipal Corporation Respondent Authorities under section 586 of the Kolkata Municipal Corporation Act, 1980.

Copy of photographs showing the Private Respondents carrying on their construction work in the alleged impugned premises No. 7A, Tiljala Place, Kolkata - 700017, and, copy of the legal notice dated 09.02.2024 under section 586 of the Kolkata Municipal Corporation Act, 1980, sent before the Kolkata Municipal Respondent Authorities, along with copies of all postal



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receipts and postal track reports are all collectively annexed herewith and collectively marked as Annexure 'P-19'.

35. That, the Kolkata Municipal Corporation Respondent Authorities inspite of receiving the legal notice dated 09.02.2024 even after sending legal notice dated 09.02.2024 purportedly and motivatedly did not take any action against the Private Respondents who have been making construction of G+VII multi-storied building in an authorised manner in the impugned premises No. 7A, Tiljala Place, P.S. - Karaya, Kolkata - 700017 upon filling up of 17 (Seventeen) Cottahs of tank in the original premises No. 7, Tiljala Place, Kolkata - 700017, and as such, the Petitioners have also sent Demand-of-Justice dated 13.02.2024 before the Kolkata Municipal Corporation Respondent Authorities, through Learned Advocate, under Speed Post, and, urged the Kolkata Municipal Corporation Authorities for taking actions and steps against the Private Respondents No. 22 to 25 and their collaborators. It is regretted that the concerned Respondent Authorities, inspite of receiving the Demand-of-Justice dated 13.02.2024, have done nothing to keep at bay the Private Respondents from stopping their construction of G+VII multi storied building in the alleged impugned premises at 7A, Tiljala Place, P.S. - Karaya, Kolkata - 700017 after filling up of 17 (Seventeen) Cottahs of tank/ pukur in the original premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, Calcutta.

Copy of the Demand-of-Justice dated 13.02.2024 sent before the Kolkata Municipal Corporation Respondent Authorities, along with copies of all postal receipts and postal track reports are all collectively annexed herewith and collectively marked as Annexure 'P-20'.

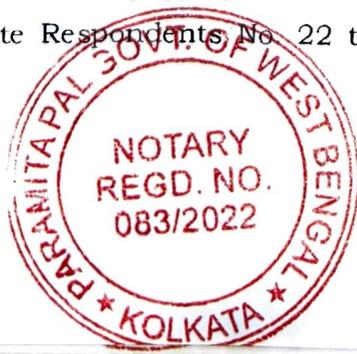


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36. That, due to complete inaction of the Respondent Authorities of the Kolkata Municipal Corporation, the Petitioners through Learned Advocate also sent Demand-of-Justice dated 16.02.2024 before the Respondent Police Authorities of the State, under Speed Post, and, urged the concerned Respondent Authorities to take urgent actions against the Private Respondents and for stopping their unauthorised construction of G+VII multi-storied building in their impugned alleged premises No. 7A, Tiljala Place, P.S. - Karaya, Kolkata - 700017, after filling up of 17 (Seventeen) Cottahs of tank/ pukur in the original premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, Calcutta. Unfortunately the concerned Respondent Police Authorities of the State did not take any action against the Private Respondents and their collaborators inspite of receiving the Demand-of-Justice dated 16.02.2024.

Copy of the Demand-of-Justice dated 16.02.2024 sent before the Respondent Police Authorities of the State, along with copies of all postal receipts and postal track reports are all collectively annexed herewith and collectively marked as Annexure 'P-21'.

37. That, the Petitioners have also sent representation dated 22.02.2024, under speed post, before the concerned Respondent Authorities of the West Bengal Inland Fisheries Act, 1984 being the Respondents No. 19, 20 and 21, and stated about the illegal activities of the Private Respondents along with their collaborators of filling of 17 (Seventeen) Cottahs of tank in the original premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, Calcutta, and, thereafter making illegal construction of G+VII multi-storied building in the alleged impugned premises No. 7A, Tiljala Place, Kolkata - 700017. The concerned Respondent Authorities No. 19, 20 and 21 did not pay any heed and did not take any steps against the Private Respondents No. 22 to 25, therefore, the Petitioners



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again served Demand-of-Justice dated 02.03.2024, under speed post, to the Respondents No. 19, 20 and 21 being the authorities of the West Bengal Inland Fisheries Act, 1984 and urged the concerned authorities to restore the 17 (Seventeen) Cottahs of tank and for taking action against the Private Respondents No. 22 to 25. Also the Petitioners have served Demand-of-Justice dated 02.03.2024 before the concerned Respondent No. 1 being the Secretary, Department of Urban Development and Municipal Affairs, of the State of West Bengal, stating all the illegal activities being committed in the original premises No. 7, Tiljala Place and part of 11, Dilkhusha Street which thereafter transformed into alleged premises No. 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place, by the Private Respondents and their collaborators, and urged the Respondent No. 1 for taking steps in the matter against the Private Respondents No. 22 to 25 and their collaborators.

Copy of the representation dated 22.02.2024 and copy of the Demand-of-Justice dated 02.03.2024 sent before the Department of Fisheries being Respondent Authorities No. 19, 20 and 21, along with its postal receipts and postal track reports, and, and copy of the Demand-of-Justice dated 02.03.2024 sent before the sent before the Respondent Authority No. 1 being Secretary, Department of Urban Development and Municipal Affairs, Government of West Bengal, along with its postal receipts and postal track reports, are all collectively annexed herewith and collectively marked as Annexure 'P-22'.

38. That, the Petitioners state that, the Respondent No. 14 being the Inspector General of Police & Vigilance Authority, Kolkata Municipal Corporation, upon receiving the complaint of the Petitioner No. 1 dated 30.12.2023 summoned the Petitioner No. 1 for personal appearance by Notice under Memo No. 40/E.O-



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II/KMC/2024 dated 01.02.2024, File No. Vig/Misc/04/24 Receipt No. 1085/23 dated 30.12.2023. The Petitioner No. 1 appeared before the Respondent No. 14 and stated all the illegal activities committed in the original landed property premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, having total area of 1 (One) Bigha 13 (Thirteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft. landed property comprising of 17 (Seventeen) Cottahs of tank/pukur wherein the Private Respondents are making illegal construction of G+VII multi-storied building upon filling up of the 17 (Seventeen) Cottahs of tank and vacating the said land upon payment of Rupees One Crore to the Guha Thakurta families, as stated supra, and thereafter making alleged mutation of the aforementioned original landed property premises into premises No. 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place, Kolkata - 700017, and utilising for construction of multi-storied building he alleged landed property premises No. 7A, Tiljala Place, Kolkata - 700017. At the material point of time of discussion in between the Respondent No. 14 and the Petitioner No. 1 namely Md. Humayun Abbas, the Petitioner No. 1 provided one synopsis containing notesheets along with all relevant documents for proving all the illegal activities of the Private Respondents and their collaborators, as stated supra. The Private Respondent No. 14 received the notesheets and all concerned relevant documents as stated in the notesheet along with forwarding letter of the Petitioner No. 1 dated 19.02.2024a and provided receipt of the same. Unfortunately the Respondent Authority No. 14 did not take any action against the Private Respondents in the context of their illegal activities as stated supra.

Copy of the Notice for personal appearance under Memo No. 40/E.O-II/KMC/2024 dated 01.02.2024, File No. Vig/Misc/04/24

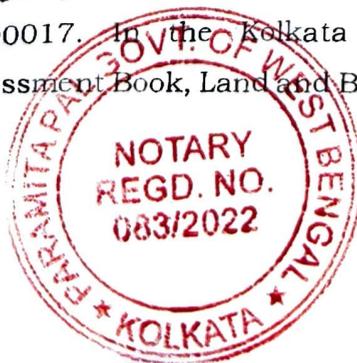


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Receipt No. 1085/23 dated 30.12.2023 as sent by the Respondent No. 14 to the Petitioner No. 1 along with the Note-sheet and forwarding letter of the Petitioner No. 1 dated 19.02.2024 are collectively annexed herewith and collectively marked as Annexure 'P-23'.

39. That, the Petitioners most humbly state that, the Private Respondents have most illegally demolished the house structure of the Petitioners erected by the grandfathers of the Petitioners at the material point of time of starting of construction in the alleged premises No. 7A, Tiljala Place, Kolkata - 700017, and, prior to that the Petitioners No. 1 and 4 all along looked after, repaired and maintained the concerned house structures erected by their grandfathers (since deceased) while at present residing nearby at premises No. 51K, Shamsul Huda Road, Kolkata - 700017 and the other Petitioners used to make frequent inspection of the house structures erected by their deceased grandfather. The Private Respondents while starting construction of G+VII multi storied building in the impugned alleged premises No. 7A, Tiljala Place, Kolkata - 700017, in the year 2023 partly demolished the house structures erected by the grandfathers of the Petitioners, after illegally filling up 17 (Seventeen) Cottahs of tank/pukur in the original premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, Calcutta, as stated supra.

40. That, the Petitioners state that, since 01.07.2023 to 17.04.2024 no Building Sanction Plan has been granted by the concerned Kolkata Municipal Corporation Respondent Authorities in the name of the Private Respondents in respect of their impugned alleged premises No. 7A, Tiljala Place, P.S. - Karaya, Kolkata - 700017. In the Kolkata Municipal Corporation, Municipal Assessment Book, Land and Building, it is recorded that



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landed area of premises No. 7A, Tiljala Place, Kolkata - 700017 is 30 (Thirty) Cottahs 14 (Fourteen) Chittacks 20 (Twenty) sq. ft. and also it is recorded that the said premises No. 7A, Tiljala Place, Kolkata - 700017 is a tank filled land, and also it is further recorded in the Assessment Book that there had been a pond in the landed property premises at 7A, Tiljala Place, Kolkata - 700017. In spite of the said facts it is surprising to understand as to how the Private Respondents No. 22 to 25 are making construction of G+VII multi storied building in the premises at 7A, Tiljala Place, Kolkata - 700017 which is very well within the knowledge of the Kolkata Municipal Corporation Respondent Authorities, and the Respondent Police Authorities of the State.

Copy of the list of building sanction plan granted by the Kolkata Municipal Corporation in respect of Borough VII from date 05.07.2023 to date 17.04.2024 as searched from the official portal of the Kolkata Municipal Corporation, and, copy of the Kolkata Municipal Corporation, Municipal Assessment Book, Land and Buildings in respect of premises No. 7A, Tiljala Place, Kolkata - 700017 are collectively annexed herewith and collectively marked as Annexure 'P-24'.

41. That, the Petitioners state that in response to the Representation of the Petitioner No. 1 namely Md. Humayun Abbas dated 22.04.2024 and Demand-of-Justice of the petitioner dated 02.03.2024 sent to the Respondent Authorities No. 19, 20 and 21 being the Authorities of Department of Fisheries, Aquaculture, Aquatic Resources and Fishing Harbours, in the context of filling up of 17 (Seventeen) Cottahs of Tank/ Pukur and making construction of multi-storied buildings thereon in the premises at 7A, Tiljala Place, P.S. - Karaya, Kolkata - 700017 by the Private Respondents No. 22, 23, 24 and 25 as stated supra,



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the said Respondent Authorities No. 19, 20 and 21 by its letter under Memo No. 697-FI-37016/1/2024-SECTION[FI] dated 04.03.2024 requested the Respondent Authority No. 3 i.e., the Municipal Commissioner, Kolkata Municipal Corporation to take action in the capacity of Competent Authority, against the Private Respondents No. 22, 23, 24 and 25 for their illegal activities, as mentioned in this Writ Application. Furthermore the concerned Respondent Authorities No. 19, 20 and 21 have also forwarded one copy of their said letter under Memo No. 727/FI/37016/1/2024-SECTION(FI) Dept of FI dated 06.03.2024 to the Petitioner No. 1 for information.

Copy of the Letter under Memo No. 697-FI-37016/1/2024-SECTION[FI] dated 04.03.2024 and Memo No. 727/FI/37016/1/2024-SECTION(FI) Dept of FI dated 06.03.2024 sent by the Authorities of Department of Fisheries, Aquaculture, Aquatic Resources and Fishing Harbours, before the Respondent Authority No. 3 being Municipal Commissioner, Kolkata Municipal Corporation, is annexed herewith and marked as Annexure 'P-25'.

42. That, the petitioners also state that in response to the complaint of the Petitioner No. 1 namely Md. Humayun Abbas dated 12.12.2023 made before the West Bengal Pollution Control Board for taking action against the Private Respondents No. 22, 23, 24 and 25 for their illegal activities of filling up 17 (Seventeen) Cottahs of Tank/ Pukur and making construction of multi-storied buildings thereon in the premises at 7A, Tiljala Place, P.S. - Karaya, Kolkata - 700017, the West Bengal Pollution Control Board by its letter under Memo No. PG/LD/03/2024 dated 07.03.2024 requested the Respondent Authority No. 3 being the Municipal Commissioner, Kolkata Municipal Corporation to take action against the Private Respondents in the context of the



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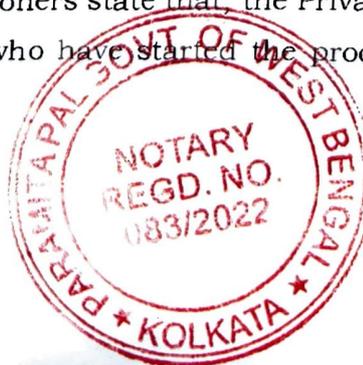
complaint by the Petitioner No 1 dated 12.12.2023 against the Private Respondents.

Copy of the Letter under Memo No. PG/LD/03/2024 dated 07.03.2024 sent by the West Bengal Pollution Control Board, before the Respondent Authority No. 3 being Municipal Commissioner, Kolkata Municipal Corporation, is annexed herewith and marked as Annexure 'P-26'.

43. That, the Petitioners state that in response to the Demand-of-Justice dated 02.03.2024 made by the Petitioners through Learned Advocate before the Respondent Authority No. 1 i.e., Secretary, Department of Urban development and Municipal Affairs, the Deputy Secretary to the Government of West Bengal, Department of Urban Development and Municipal Affairs by its letter under Memo No. 251/UDMA-19011(11)/26/2024-GENL SEC-Dept. of UDMA dated 27.03.2024 requesting the Respondent Authority No. 3 i.e., Municipal Commissioner, Kolkata Municipal Corporation for taking action into the illegalities committed by the Private Respondents as stated supra, and, forwarded one information to the Learned Advocate for the Petitioners.

Copy of the Letter under Memo No. 251/UDMA-19011(11)/26/2024-GENL SEC-Dept. of UDMA dated 27.03.2024 sent by the Department of the Respondent No. 1 being Secretary of Department of Urban Development and Municipal Affairs, before the Respondent Authority No. 3 being Municipal Commissioner, Kolkata Municipal Corporation, is annexed herewith and marked as Annexure 'P-27'.

44. That, the Petitioners state that, the Private Respondents and their collaborators who have started the process of filling up 17



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(Seventeen) Cottahs of tank/pukur in the original premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, Calcutta, since the year 1945 after Begum Lutfunnessa purchased the premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, Calcutta from Nirmal Chandra Bandopadhyay/ Banerjee, have all conjointly by criminal conspiracy, forgery, deceit, cheating, fabrication and making false documents, have made fruitful their common intention for reaping the harvest of the aforementioned illegal activities by the Private Respondents No. 22, 23, 24 and 25 who are making G+VII multi storied building in the impugned and alleged premises No. 7A, Tiljala Place, Kolkata - 700017 well within the knowledge of the Respondent Authorities No. 1 to 21.

45. That, the Petitioners submit that, there is every possibility of serious harm and causing accident and dangerous situation leading to loss of lives and casualty of the neighbourhood persons in the event the G+VII storied building is allowed to be constructed by the Private Respondents upon filling up of 17 (Seventeen) Cottahs of tank/pukur which has been confirmed and definitely stated and ratified by the concerned Respondent Authorities of Kolkata Municipal Corporation in their records.

46. That, the Petitioners submit that, under all circumstances Begum Lutfunnessa who has been a domicile of erstwhile East Pakistan and thereafter Bangladesh since the year 1962 as stated by herself in the Sale Deeds No. 1240, 1239, 1238 and 1237 all for the year 1998, cannot after a lapse of more or less 36 (Thirty six) years sell out the landed property premises just by ordinary methods of providing power of attorney to Amiruddin Ahmed for selling the landed property premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, Calcutta to the Private Respondents No. 22 to 25 without appropriate Due Process of Law.



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47. That, the Petitioners submit that, the Private Respondents No. 22 to 25 since the inception of Sale Deed of premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, Calcutta in the year 1945 have all along conspired with Begum Lutfunnessa, the Guha Thakurta family and all other concerned, and, have committed illegal activities in camouflaged and surreptitious manner with apparent introspection of innocence and filled up the 17 (Seventeen) Cottahs of tank/pukur in the landed property premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, Calcutta, and have been making construction of G+VII multi storied building in 30 (Thirty) Cottahs 14 (Fourteen) Chittacks 20 (Twenty) sq. ft. land area in the impugned alleged premises No. 7A, Tiljala Place, Kolkata - 700017 without making compliance of statutory provisions of law.

48. That, the Petitioners submit that, under all circumstances the Private Respondents along with their collaborators cannot fill up the 17 (Seventeen) Cottahs of tank/pukur comprised in the original landed property premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, Calcutta which is definitely and specifically mentioned in several deeds under Being Nos. 208 of 1931, under Being No. 643 of 1945, under Being No. 1240, 1239, 1238 and 1237 all for the year 1998, as well as in the Assessment Book of Kolkata Municipal Corporation recorded in the name of Mohammed Hashem in the year 1946-47, and in the Municipal Assessment Book of Kolkata Municipal Corporation in the name of the Private Respondents No. 22, 23, 24 and 25 in respect of the impugned alleged landed property No. 7A, Tiljala Place, Kolkata - 700017.

49. That, the Petitioners submit that, the Respondent Authorities of Kolkata Municipal Corporation are suspiciously

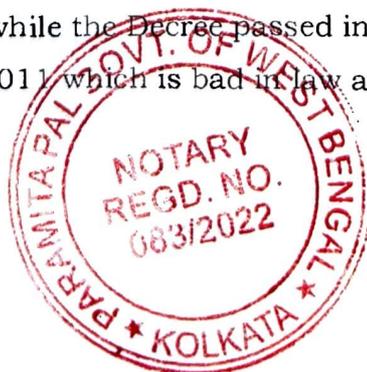


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colluding and conniving with the Private Respondents, as because within the jurisdiction of Kolkata Municipal Corporation Ward No. 65, the Respondent Authority No. 5 being the Director General (E & H), Kolkata Municipal Corporation cannot pass order dated 28.12.2021 ratifying the described area of pond/ water body of 1 (One) Cottah 7 (Seven) Chittacks in the impugned alleged premises No. 7A, Tiljala Place, Kolkata - 700017 which reflects the common intention of camouflage and surreptitious illegal activity of the Private Respondents and Kolkata Municipal Corporation Respondent Authorities.

50. That, it is surprising to learn that, Begum Lutfunnessa while filing Title Suit No. 63 of 1993 appointed Sri Manindra Kumar Ganguly as her Constituted Attorney while residing since the year 1962 at East Pakistan and thereafter Bangladesh, and thereafter again Begum Lutfunnessa appointed Amiruddin Ahmed while residing at Bangladesh and executed Sale Deeds No. 1240, 1239, 1238 and 1237 all for the year 1998 in favour of the Private Respondents for selling out the original landed property premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, Calcutta which is bad in law, at all times to come.

51. That, the Petitioners submit that, during lis pendens of Title Suit No. 63 of 1993 which got renumbered as amended plaint in Title Suit No. 53 of 2004 before the Learned Court of 9th Civil Judge, Senior Division, Alipore and the instant Title Suit being filed by Begum Lutfunnessa, prior to passing of Decree in Title Suit No. 53 of 2004, Begum Lutfunnessa while residing at Bangladesh sells original landed property premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, Calcutta, to the Private Respondents in the year 1998, while the Decree passed in Title Suit No. 53 of 2004 on date 24.03.2011 which is bad in law and illegal.

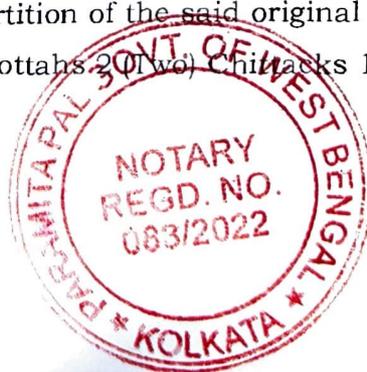


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52. That, the Petitioners submit that, the payment of Rs. 1,00,00,000/- (Rupees One Crore only) made by the Private Respondents No. 22 to 25 to the Guha Thakurta Families for vacating and handing over delivery of possession of the original landed property premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, Calcutta and transforming the said original landed property premises into premises No. 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place, Kolkata - 700017, and, the entire process being documented upon by Deed of Agreement/ Settlement dated 08.07.2010, upon India Non Judicial Stamp Paper of Rs. 50/- (Rupees Fifty only) and notarized, and, thereafter delivery of possession of land has taken place, and, the Private Respondents No. 23 to 25 received the possession of the entire 1 One) Bigha 13 (Thirteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft. property comprising of 17 (Seventeen) Cottahs of tank/pukur within the landed property premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, Calcutta, which allegedly transformed into premises No. 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place, Kolkata - 700017, wherein the 17 (Seventeen) Cottahs of tank/pukur is not mentioned in the Deed of Agreement/ Settlement dated 08.07.2010 and the same being ratified and accepted by the Court of Learned 9th Civil Judge, Senior Division, Alipore, in Title Suit No. 53 of 2004 and made part of Decree dated 24.03.2011 is completely illegal and bad in law.

53. That, the Petitioners submit that, the Guha Thakurta families as mentioned supra did not have any mother deed, and they occupied the land illegally in the original premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, Calcutta, and fabricatedly made partition of the said original property of 1 One) Bigha 13 (Thirteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft.



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comprising of 7A, Tiljala Place, Kolkata - 700017 therein, and the Private Respondents No. 22 to 25 being hand in gloves with Guha Thakurta added themselves as Defenders No. 11 to 14, and fraudulently obtained Decree in Title Suit No. 53 of 2004 under illusory and camouflaged manner utilising the process of law and courts of law, which is very much detrimental for the society and unsustainable in law.

54. That, the Petitioners submit that, even the Respondent Police authorities have purportedly and motivatedly sat tight over the matter with complete inaction and culpable negligence, and allowed the Private Respondents to commit all the illegal activities, as stated supra.

55. That, the Petitioners submit that, all the aforementioned illegal activities happened within the jurisdiction of Kolkata Municipal Corporation as well as before the Respondent Police Authorities of the state, and all have purportedly and motivatedly maintained silence, and supported and allowed the aforementioned illegal activities to be committed by the Private Respondents and their collaborators, and, that the acts and actions of the Respondent Authorities are unjustifiable with dereliction of their bounden duty towards the State and Country and deliberate violation of law.

56. That, the Petitioners submit that, the mutation of the impugned alleged premises No. 7A, Tiljala Place, Kolkata - 700017 comprising of 30 (Thirty) Cottahs 14 (Fourteen) Chittacks 20 (Twenty) sq. ft. of land in the names of Private Respondents No. 22 to 25 by the Kolkata Municipal Corporation Respondent Authorities in the said tank filled land is illegal and bad in law.



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57. That, the Petitioners submit that, the Petitioners and the neighbourhoods are all prejudiced and put in jeopardy for the aforementioned illegal activities of the Respondent Authorities and the Private Respondents leading to loss of lives and casualty due to filling up of 17 (Seventeen) Cottahs of tank/pukur and construction of multi storied building thereon.
58. That, the Petitioners submit that, demolition of the house structures by the Private Respondents, which was erected by the grandfathers of the Petitioners, have caused irreparable loss and hardship to the Petitioners.
59. That, the Petitioners submit that, the surreptitious and illegal and unauthorised construction of building which is being continuously made by the Private Respondents and their collaborators upon the impugned and alleged landed property premises No. 7A, Tiljala Place, Kolkata - 700017, due to complete in-action of the concerned Respondent Authorities is a clear violation of the Fundamental Rights of the Petitioners and neighbourhoods.
60. That, the Petitioners submit that the Private Respondent in a fabricated manner without any building sanction plan under Due Process of Law are making construction of G+VII multi storied building in a manipulated manner being colluded and connived with the concerned Respondent Authorities, and, as such the said illegal and unauthorised construction of building made by the Private Respondents in the impugned and alleged premises No. 7A, Tiljala Place, P.S. - Karaya, Kolkata - 700017 requires to demolished upon order/orders, direction/ directions passed by Your Lordship upon the Respondent Authorities.



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61. That, the Petitioners most humbly submit that, the in-action of the Respondent Authorities amounts to the infringement of Fundamental Rights of the Petitioners as enshrined under Article 14, Article 21 and Article 51A of the Constitution of India.
62. That, the Petitioners most humbly submit that, the acts and deeds of the Respondent Authorities suffers from illegality, irrationality, procedural impropriety, culpable negligence with complete in-action, and as such, the acts of the Respondent Authorities warrants interference by this Hon'ble Court in exercise of its jurisdiction under Article 226 of the Constitution of India.
63. That, the Petitioners most humbly submit that, the Respondent Authorities are obliged to discharge their statutory function, but, in the present case it is apparently clear that the Respondent Authorities have deliberately failed and neglected to discharge their statutory function, and as such, the unauthorized and illegal construction carried out by the Private Respondents are in complete disregard to the statutory mandate.
64. That, it is submitted that this Hon'ble Court has plenary power and overriding duty under Article 226 of the Constitution of India to see that public bodies and authorities such as the concerned Respondents act in accordance with law and discharge their statutory function.
65. Being aggrieved by and dissatisfied with the impugned, arbitrary and culpable in-action of the Respondent Authorities as aforesaid, your Petitioners beg to move this application before Your Lordships on the following amongst other :

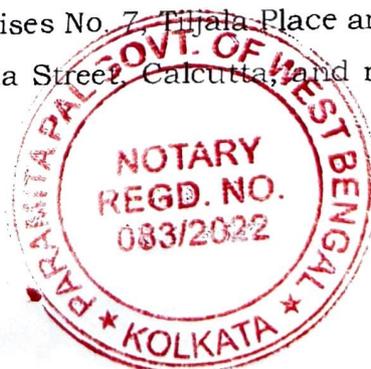


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Grounds

- i. For that, the policy of the concerned Respondent Authorities are discriminatory, purportedly motivated, arbitrary, illegal and untenable in the eye of law.
- ii. For that, the Respondent Authorities have full knowledge of the process of filling up 17 (Seventeen) Cottahs of tank/pukur in the original premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street after Begum Lutfunnessa purchased the concerned landed property in the year 1945 from Nirmal Chandra Bandopadhyay and there had been a preordained and concerted conspiracy of filling up the 17 (Seventeen) Cottahs of tank/ pond by the Private Respondents in collusion and connivance with the Respondent Authorities, as such the Private Respondents are able to make construction of the alleged G+VII multi storied building on the land filled up where there had been 17 (Seventeen) Cottahs of tank/ pond in the aforementioned landed property remises of Begum Lutfunnessa.
- iii. For that, the concerned Respondent Authorities in conjunction with the Private Respondents have flouted the law of the land by way of deceit, making false documents, forgery, and thereby facilitating the Private Respondents for filling up of the 17 (Seventeen) Cottahs of tank/ pond and make construction of the alleged G+VII multi storied building.
- iv. For that, the in-action of the Respondent Authorities in restraining the Private Respondents from committing illegal act of filling up the 17 (Seventeen) Cottahs of tank in the original landed property premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street, Calcutta, and making



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construction of G+VII storied building in the transformed, impugned and alleged premises No. 7A, Tiljala Place, Kolkata - 700017 being certainly an unauthorized and illegal construction made by the Private Respondents well within the knowledge of the Respondent Authorities certainly amounts to infringement of Fundamental Rights of the Petitioners and breach of law and order.

- v. For that, the Respondent Authorities failed to understand that making construction of multi storied building upon the 17 (Seventeen) Cottahs of tank filled up land and adjacent lands creates a serious threat and possibility of serious harm and accident leading to dangerous situation of loss of lives and casualty because of the condition of the land being not suitable for construction of multi-storied building thereon.
- vi. For that, the Respondent Authorities failed to understand the implications of destruction of 17 (Seventeen) Cottahs of tank/pond ecosystem and the imbalance of the ecosystem as an aftermath of such illegal activities of the Private Respondents, which certainly jeopardizes the natural resources and the environment.
- vii. For that, Respondent Authorities are bound to act against the Private Respondents for their making construction of multi-storied building upon the tank filled up land and adjacent land after demolition of house structures of the Petitioners which is certainly an illegal and unauthorised construction.
- viii. For that, the concerned Respondent Authorities ought not to have provided mutation of the impugned and alleged premises No. 7A, Tiljala Place, P.S. - Karaya, Kolkata - 700017 in favour



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of the Private Respondents, who have not become owners of the concerned landed property premises under Due Process of Law.

- ix. For that, the Respondent Authorities ought to have initiated demolition proceedings against the Private Respondents for their illegal construction of building for the purpose of restoration of the 17 (Seventeen) Cottahs of tank/ pond in the concerned landed property.
- x. For that, the concerned Respondent Authority No. 5 being Director General (E & H) Kolkata Municipal Corporation acted arbitrarily and illegally by ratifying the described area of pond / water body of 1 (One) Cottah 7 (Seven) Chittacks in the impugned alleged premises No. 7A, Tiljala Place, Kolkata - 700017, K.M.C. Ward No. 65, which reflects the common intention of camouflage and surreptitious illegal activities of the Private Respondents and the Kolkata Municipal Corporation Respondent Authorities.
- xi. For that, the concerned Respondent Authorities have purportedly and motivatedly bypassed the criminal activities of the Private Respondents and its collaborators at the material point of time of granting mutation in the name of the Private Respondents No. 22 to 25 in respect of impugned and alleged premises No. 7A, Tiljala Place, Kolkata - 700017, ignoring the fact that Begum Lutfunnessa while becoming a domicile of East Pakistan and thereafter Bangladesh since the year 1962, after a lapse of 36 (Thirty Six) years cannot execute registered Sale Dees No. 1240, 1239, 1238 and 1237 all for the year 1998 through Constituted Attorney Amiruddin



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Ahmed without Due Process of Law, as the said Sale Deeds being illegal in the eye of law.

- xii. For that, the Respondent Authorities have failed and neglected to perform their legal and statutory function and obligation contained under The Kolkata Municipal Corporation Act, 1980, West Bengal Inland Fisheries Act, 1984, the Police Act, 1861, with all its Rules and amendments as framed thereafter.
- xiii. For that, the Respondents Authorities have not acted in consonance with the provisions of the laws of land.
- xiv. For that, the Petitioners have not been treated equally before the law.
- xv. For that, the concerned Respondent Authorities have purportedly and motivatedly ignored the fact that the Private Respondents No. 22 to 25 since the inception of Sale Deed of premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, Calcutta in the year 1945 have all along conspired with Begum Lutfunnessa, the Guha Thakurta family and all other concerned, and, have committed illegal activities in camouflaged and surreptitious manner with apparent introspection of innocence and filled up the 17 (Seventeen) Cottahs of tank/pukur in the landed property premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, Calcutta, and have been making construction of G+VII multi storied building in 30 (Thirty) Cottahs 14 (Fourteen) Chittacks 20 (Twenty) sq. ft. land area in the impugned alleged premises No. 7A, Tiljala Place, Kolkata - 700017 without making compliance of statutory provisions of law.



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xvi. For that, the concerned Respondent Authorities, purportedly and motivatedly with culpable negligence have ignored the fact that under all circumstances the Private Respondents along with their collaborators cannot fill up the 17 (Seventeen) Cottahs of tank/pukur comprised in the original landed property premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, Calcutta which is definitely and specifically mentioned in several deeds under Being Nos. 208 of 1931, under Being No. 643 of 1945, under Being No. 1240, 1239, 1238 and 1237 all for the year 1998, as well as in the Assessment Book of Kolkata Municipal Corporation recorded in the name of Mohammed Hashem in the year 1946-47, and in the Municipal Assessment Book of Kolkata Municipal Corporation in the name of the Private Respondents No. 22, 23, 24 and 25 in respect of the impugned alleged landed property No. 7A, Tiljala Place, Kolkata - 700017.

xvii. For that, the concerned Respondent Authorities have been always sitting tight over the matter with complete inaction in order to facilitate the activities of the Private Respondents in an orchestrated manner and ignored the fact that during lis pendens of Title Suit No. 63 of 1993 which got renumbered as amended plaint in Title Suit No. 53 of 2004 before the Learned Court of 9th Civil Judge, Senior Division, Alipore and the instant Title Suit being filed by Begum Lutfunnessa, prior to passing of Decree in Title Suit No. 53 of 2004, Begum Lutfunnessa while residing at Bangladesh sells original landed property premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, Calcutta, to the Private Respondents in the year 1998, while the Decree passed in Title Suit No. 53 of 2004 on date 24.03.2011 which is bad in law and illegal.



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xviii. For that, the concerned Respondent Authorities overlooked the entire facts and circumstances of illegal activities and illegal nexus of the Private Respondents with Begum Lutfunnessa who had filed Title Suit No. 63 of 1993 appointing Sri Manindra Kumar Ganguly as her Constituted Attorney while residing since the year 1962 at East Pakistan and thereafter Bangladesh, and thereafter again Begum Lutfunnessa appointed Amiruddin Ahmed while residing at Bangladesh and executed Sale Deeds No. 1240, 1239, 1238 and 1237 all for the year 1998 in favour of the Private Respondents for selling out the original landed property premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, Calcutta, without Due Process of Law.

xix. For That, the concerned Respondent Authorities with intentional motivation have ignored the fact, that the payment of Rs. 1,00,00,000/- (Rupees One Crore only) made by the Private Respondents No. 22 to 25 to the Guha Thakurta Families for vacating and handing over delivery of possession of the original landed property premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, Calcutta and transforming the said original landed property premises into premises No. 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place, Kolkata - 700017, and, the entire process being documented upon by Deed of Agreement/ Settlement dated 08.07.2010, upon India Non Judicial Stamp Paper of Rs. 50/- (Rupees Fifty only) and notarized, and, thereafter delivery of possession of land has taken place, and, the Private Respondents No. 23 to 25 received the possession of the entire 1 (One) Bigha 13 (Thirteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft. property comprising of 17 (Seventeen) Cottahs of tank/pukur



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within the landed property premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, Calcutta, which allegedly transformed into premises No. 7A, 7B, 7C, 7D, 7E and 7F, Tiljala Place, Kolkata - 700017, wherein the 17 (Seventeen) Cottahs of tank/pukur is not mentioned in the Deed of Agreement/ Settlement dated 08.07.2010 and the same being ratified and accepted by the Court of Learned 9th Civil Judge, Senior Division, Alipore, in Title Suit No. 53 of 2004 and made part of Decree dated 24.03.2011 is completely illegal and bad in law.

xx. For that, the Respondent Authorities have intentionally overlooked the matter to the extent that the Guha Thakurta families did not have any mother deed, and, they were not owners of the concerned landed property premises, they occupied the land illegally in the original premises No. 7, Tiljala Place and part of 11, Dilkhusha Street, Calcutta, and in fabricated manner made partition of the said original property of 1 One) Bigha 13 (Thirteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft. comprising of 7A, Tiljala Place, Kolkata - 700017 therein, and the Private Respondents No. 22 to 25 being hand in gloves with Guha Thakurta added themselves as Defenders No. 11 to 14, and fraudulently obtained Decree in Title Suit No. 53 of 2004 under illusory and camouflaged manner utilising the process of law and courts of law, which is very much detrimental for the society and unsustainable in law.

xxi. For that, the concerned Respondent Authorities are guilty of culpable negligence, dereliction of duty, arbitrariness and total inaction by way of not considering the complaints of the petitioners dated 07.02.2024, 09.02.2024, representations



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dated 09.02.2024, further representation dated 22.02.2024, Demand of Justice dated 13.02.2024, 16.02.2024, 02.03.2024, and, inspite of receiving the same, and, not taking any action against the illegal activities of the Private Respondents and their collaborators, and, therefore such failure of the part of the concerned respondent Authorities is therefore wholly illegal and malafide, prejudicially affecting the right of the Petitioners and other persons of the locality.

xxii. For that, the Respondents infringed the Fundamental Rights of the Petitioners, as guaranteed under Article 14, Article 21 and Article 51A of the Constitution of India.

xxiii. For that, the concerned Respondent No. 14 being the Inspector General of Police & Vigilance Authority, Kolkata Municipal Corporation, inspite of receiving all documents upon hearing and receiving note-sheets of illegal activities of the Private Respondents and their collaborators, is purportedly and motivatedly maintaining silence and sitting tight over the matter and is not taking any action against the Private Respondents and their collaborators, inspite of having authority over the same.

xxiv. For that, the acts and deeds of the Respondent Authorities suffers from illegality, irrationality, procedural impropriety, culpable negligence with complete in-action, and as such, the acts of the Respondent Authorities warrants interference by this Hon'ble Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

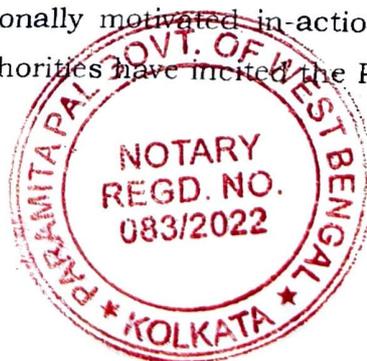
xxv. For that, the Private Respondents are making construction of the ~~Govt~~ multi-storied building in the impugned alleged



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premises No. 7A, Tiljala Place, P.S. – Karaya, Kolkata – 700017 with hand in gloves with the concerned Respondent Authorities who, with legal impropriety, intentionally allowing the Private Respondents to carrying on with their illegal activities, inspite of having full knowledge about the illegalities of the Private Respondents, and, endangering the lives of the Petitioners and other neighbourhood.

- xxvi. For that, the Respondent Authorities are obliged to discharge their statutory function, but, in the present case it is apparently clear that the Respondent Authorities have deliberately failed and neglected to discharge their statutory function, and as such, the unauthorized and illegal construction carried out by the Private Respondents are in complete disregard to the statutory mandate.
- xxvii. For that, the arbitrary acts of the Respondent Authorities are not only against the Constitutional safeguards of the citizen under the law but also unfair, improper and against the principle of Equity and Natural Justice.
- xxviii. For that, the instant acts and deeds of the Respondent Authorities with total in-action amounts to denial of justice to the Petitioners.
- xxix. For that, the concerned Respondent Authorities by their purported and motivated in-action have made violation of Article 310 and Article 311 of the Constitution of India.
- xxx. For that, the concerned Respondent Authorities have failed to consider the justification of the Petitioner's grievances and that the intentionally motivated in-action of the concerned Respondent Authorities have incited the Private Respondents



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and their collaborators in furtherance of their making unauthorized and illegal construction upon the alleged impugned premises No. 7A, Tiljala Place, P.S. – Karaya, Kolkata - 700017 and depriving the Petitioners from there legitimate right in the concerned landed property, which the Petitioners have obtained by operation of law.

xxxii. For that, the Kolkata Municipal Corporation Respondent Authorities headed by the Respondent No. 3 being the Municipal Commissioner bears the total responsibility of discharging its duty towards the Petitioners who have been continuously complaining before all Respondent Authorities against the illegal activities of the Private Respondents who are making the impugned and unauthorised construction of G+VII storied building in the alleged premises at 7A, Tiljala Place, P.S. – Karaya, Kolkata – 700017 upon filling up of 17 (Seventeen) Cottahs of tank in the same landed property which had been original premises No. 7, Tiljala Place and part of 11, Dilkhusa Street, that which has been ratified in several Deeds and documents and practically after the landed property has been usurped by the Private Respondents under surreptitious manner, befooling the concerned authorities.

xxxiii. For that the Respondent Authority No. 3 being the Municipal Commissioner, Kolkata Municipal Corporation had been wilfully sitting tight over the matter with complete inaction inspite of the fact that several other Respondent Authorities have been placing reliance upon the Respondent Authority No. 3 as the concerned authority to initiate action against the Private Respondents for their such illegal activities as stated herein in this instant Writ application.



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xxxiii. For that, the Respondent Authorities are obliged to discharge their statutory function, but, in the present case it is apparently clear that the Respondent Authorities have deliberately failed and neglected to discharge their statutory function, and as such, the unauthorized and illegal construction carried out by the Private Respondents are in complete disregard to the statutory mandate.

xxxiv. For that, this Hon'ble Court has plenary power and overriding duty under Article 226 of the Constitution of India to see that public bodies and authorities such as the concerned Respondents act in accordance with law and discharge their statutory function.

xxxv. For that, the unauthorized and illegal construction of multi-storeyed building which is being carried on continuously and unabatedly in the impugned alleged landed property premises No. 7A, Tiljala Place, P.S. - Karaya, Kolkata - 700017, is liable to be interfered with, and, deserves to be demolished, and, the 17 (Seventeen) Cottahs of tank/ pond which existed thereon be restored in its original condition, by the order of the Hon'ble Court, upon issuance of highly prerogative writ by Your Lordships upon the concerned Respondent Authorities, and, for strict action against the Private Respondents and their collaborators under Due Process of Law.

xxxvi. For that, the Respondent Authorities by way of disregarding the Petitioners' complaints, representation and Demand-of-justice have acted in a very high handed illegal, arbitrary and discriminatory manner.



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66. That, the Petitioners state that, any other and/or further Demand-of-Justice would be an empty formality and/or futile exercise, the Petitioners No. 2 to 5 are represented by their Constituted Attorney being Petitioner No. 1.

Copy of Power of Attorney is annexed as Annexure 'P-28'.

67. That, as the matter is extremely urgent and as because of the purported unjustified, culpable negligence and in-action of the concerned appropriate Respondent Authorities, and as your Petitioners being severely prejudiced with irreparable loss and hardship, equally, and as there is no other specific, speedy and efficacious alternative legal remedy open to your Petitioner in spite of having a good prima facie case, and, the reliefs sought for herein, if granted, will offer complete and adequate remedy to your Petitioners. In view of the urgency of the matter Your Lordship may be dispensed with Rule 27 of the Writ Rules.

68. That, the balance of convenience and inconveniences are in favour of the Petitioners.

69. That, even otherwise, violation of Fundamental Rights are concerned in the instant case and as such the existence of alternative remedy if at all, or if any, it is submitted, is no bar.

70. That, your Petitioners have a strong prima facie case on records and the preponderance of balance of convenience and inconvenience is in favour of your Petitioners and as such the orders prayed for should be granted to meet the Ends-of-Justice.

71. That, unless orders passed as prayed for herein your Petitioners would suffer irreparable loss and prejudice.

72. That, the records of the case are with the concerned Respondent Authorities in the District of Kolkata, West Bengal, within the Appellate Side Jurisdiction of this Hon'ble Court.



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73. This application is made bonafide and for the Ends-of-Justice and Interest of Justice.

Under the circumstances, your Petitioners most humbly and respectfully prays that Your Lordships May graciously be pleased to issue:-

a) A Writ in the nature of Mandamus commanding/ directing the concerned Respondent Authorities to initiate proceedings against the Private Respondents No. 22 to 25 for demolition of the illegal construction work already made for the construction of G+VII storied building in the tank filled up landed property of the Petitioners in the impugned alleged premises No. 7A, Tiljala Place. P.S. - Karaya, Kolkata - 700017 comprising of 30 (Thirty) Cottahs 14 (Fourteen) Chittacks 20 (Twenty) sq. ft. of landed property arising out of original laded property premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street, Calcutta, within the jurisdiction of K.M.C. Ward No. 65, Borough - VII, P.S. - Karaya, Kolkata - 700017, and, to initiate proceedings for restoration of 17 (Seventeen) Cottahs of tank which existed in the original landed property premises No. 7, Tiljala Place



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and part of premises No. 11, Dilkhusha Street, Calcutta.

- b) A Writ in the nature of Mandamus commanding the concerned Respondent Authorities to consider the Writ Petition as representation of the Petitioners and to take necessary steps to stop forthwith all construction work in the impugned alleged landed property premises No. 7A, Tiljala Place. P.S. - Karaya, Kolkata - 700017 arising out of original premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street, Calcutta, and for restoration of the 17 (Seventeen) Cottahs of tank therein which existed in the original landed property No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street, Calcutta, and, to act in accordance with law and to ensure that life and property of the Petitioners and its neighbours should not be endangered for such illegal construction made by the Private Respondents;
- c) A writ in the nature of Prohibition directing the concerned Respondents for not to issue Building Sanction Plan in respect of alleged impugned premises No. 7A, Tiljala Place. P.S. -



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Karaya, Kolkata - 700017 for construction of G+VII storied building upon the original 17 (Seventeen) Cottahs of tank filled up land in the original premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street, Calcutta, which is originally comprised of 1 (One) Bigha 13 (Thirteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft. of properties consisting the said 17 (Seventeen) Cottahs of tank, in contravention with the provisions of The West Bengal Inland Fisheries Act, 1984 and The Kolkata Municipal Corporation Act, 1980, as amended thereafter and the Rules framed thereunder as well as in contravention of the other laws of the land;

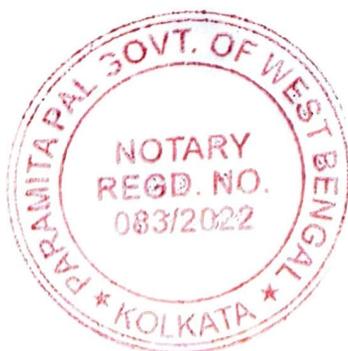
- d) A Writ in the nature of Certiorari calling upon the Respondents and each of them to transmit and produce all relevant records before this Hon'ble Court so that conscionable Justice may be administered;
- e) Any other appropriate Writ or Writs;
- f) Rule NISI in terms of prayer (a), (b), (c), (d) and (e) above;



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- g) Interim order directing concerned Respondents for restraining forthwith the Private Respondents and their collaborators for not to proceed or construct any further construction in the impugned tank filled landed property premises No. 7A, Tiljala Place. P.S. - Karaya, Kolkata - 700017, arising out of original premises No. 7, Tiljala Place and part of premises No. 11, Dilkhusha Street, Calcutta comprised of 1 (One) Bigha 13 (Thirteen) Cottahs 2 (Two) Chittacks 13 (Thirteen) sq. ft. of properties wherein the said 17 (Seventeen) Cottahs of tank has been illegally filled up.
- h) Ad-interim order in terms of prayer (a), (b), (c) and (g) as above;
- i) And to pass such other or further order or orders and/or direction or directions as this Hon'ble Court may deem fit and proper, for the Ends-of-Justice.

And for this act of kindness, your Petitioners, as in duty bound, shall ever pray.



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Affidavit

I, Md. Humayun Abbas, son of Late Md. Abbas, aged about 46 years, by faith - Islam, by occupation - Business, having residence at 51K, Shamsul Huda Road, Police Station - Karaya, Kolkata - 700017, do hereby solemnly affirm and say as follows :-

1. That I am the Petitioner No. 1 in this writ petition, and, I am the Tadbirkar on behalf of the Petitioners, and, I am fully conversant with the facts and circumstances of this instant writ petition.
2. That the statement made in paragraphs No. 1 to 44 of the instant writ petition are true to the best of my knowledge and belief and those made in paragraphs No. 42 to 65 and 66 to 73 are my respectful humble submission before this Hon'ble Court.

sd/-

Prepared in my Office

The deponent is known to me

sd/- S.A. Moqmed.
Advocate

Clerk to

Solemnly affirmed before me

Advocate

This the 19th day of May, 2024.

Commissioner



**.BEFORE THE NATIONAL GREEN
TRIBUNAL,
(EASTERN ZONE BENCH), KOLKATA
ORIGINAL APPLICATION NO. 16 OF
2024/EZ**



IN THE MATTER OF:

MD. HUMAYUN ABBAS

...Applicants.

-Versus-

The State of West Bengal & Ors.

...Respondents.

SUPPLEMENTARY AFFIDAVIT ON BEHALF
OF THE RESPONDENT NOS. 4, 5 AND 6.

Shahnawaz Alam,
Advocate.

High Court, Calcutta
84/1, D.C.DEY ROAD KOL-15.

advocate.siddique@gmail.com
MOB-:9330908825

22 APR 2025