

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

O. A. No. 70 of 2025/EZ

In the matter of:

Jayprakas Chaudhuri

.....Applicant

VS

State of West Bengal & Ors.

.....Respondents

INDEX

24 NOV 2025

Sl.No.	Particulars	Annexures	Pages No.
1.	Counter Affidavit on behalf of the respondent no. 10.		1 - 6
2.	Photocopy of the Rules of the West Bengal Land Reforms Manual, 1997	Rxk	1-6



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Regd. No.....

Before the Hon'ble
Appellate Court
Order No. 27

M/S 24/11/25

**COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 10 AGAINST
THE AFFIDAVIT FILED BY RESPONDENT NO. 6.**

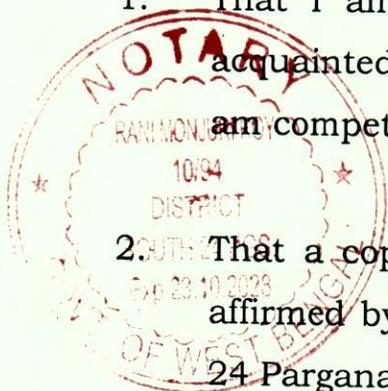
I, Biswajit Roy son of Late Biswanath Roy, aged about 57 years by - faith Hindu, by occupation-Business residing at 2879, Nayabad, P.O. & P.S- Panchasayar, Kolkata - 700094, District - South 24 Parganas, do hereby solemnly affirm and sincerely state as follows:

1. That I am the Respondent No. 10 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.

2. That a copy of Compliance Report in the form of affidavit to be affirmed by Sumit Gupta, District magistrate and Collector, South 24 Parganas on behalf Respondent No. 6 herein (hereinafter referred to as the "said affidavit") was served upon the Learned Advocate-on-Record on 09.09.2025. I say that I have gone through the same and have understood the contents and purports thereof.

3. Before dealing with the allegations and/or statements and/or averments made in the various paragraphs of the said affidavit, it is stated and submitted that the said application contains incorrect allegations and/or averments and/or statements carefully put in between the facts of the case only with the ulterior motive to mislead

Biswajit Roy



24 NOV 2025

X

this Hon'ble Tribunal. It is made clear herein that the allegations and/or averments and/or statements which are not specifically dealt with by me hereinafter are deemed to be set out hereafter and traversed ad-seriatim.

4. Now I proceed to deal with the various averments and/or statements made in various paragraphs of the said affidavit. The statements and/or averments which are not specifically dealt with hereinafter are deemed to be set out hereinafter and traversed ad-seriatim.
5. With reference to the statement made in paragraph nos. 1 to 10 of the said petition, I offer no comment as the same are all matters of record and deny anything which is inconsistent and/or contrary to the facts borne out from the records. I specifically deny that water body has been filled up by the respondent no. 10 herein. I state that that the said plot of land was allotted to one Satadal Sarkar. The Co-operative society allotted share certificate and deed of conveyance in favour to said Satadal Sarkar. Said Satadal Sarkar subsequently transferred to one Himangshu Das & Sumitra Das, the co-operative society transferred also transferred the share certificate in favour of said Himangshu Das & Sumitra Das. Said Himangshu Das & Sumitra Das executed a development agreement in favour of the answering respondent for development.

6. I further state that after purchasing the aforesaid plot of land, the name of the Himangshu Das & Sumitra Das was duly mutated in the record of the Kolkata Municipal Corporation and the nature of the said plot of land was recorded as "Vacant Land".

7. It is stated that the said Jadavpur Co-Operative Land and Housing Society Limited had purchased the alleged plot of land comprised in R. S. Dag Nos. 135 (part) in the year 1978 from the recorded owners. In the said Plot No. 135 is recorded as Beel, but physically the said plots are solid land in the past 40-45 years back.

8. It is further stated that the said alleged plots were become solid land prior to enactment of West Bengal Inland Fisheries Act, 1984 and

Biswjit Ray

X

therefore, the Fisheries Department, by way of Memo No. 2392/Fish/C-III/2M-51/2009 dated 05.08.2011, had issued the No Objection for converting and/or correction the Record of Rights from Beel to Bastu Land for construction of dwelling house.

9. It is respectfully submitted that no application for conversion and/or correction of Record of Right has not been submitted before the concerned Collector under the provisions of the West Bengal Land Reforms Act, 1955. It is pertinent to mention that under the provisions of West Bengal land Reforms Manual, 1991, the Collector and/or District Magistrate has empowered to grant post facto permission as the nature and character of the said plots of land was converted before 24.03.1986. The relevant portion of the said provision is as follows:

“166. (i) While disposing of a petition for conversion, it may come to the notice of the Collector that the land has been already converted to some use other than that appearing from the record-of-rights. Such a case should normally be dealt with under section 4(4). In such cases, it should be enquired as to whether the change in use has been made in the usual course of nature or by deliberate action on the part of the applicant or any other person; and, in the latter case, it should also be ascertained whether the change took place before 24.3.86 i.e. the date of publication in the official gazette of the West Bengal Land Reforms (Amendment) Act, 1981.

24 NOV 2025

(ii) If the change in the use of land has occurred (a) in the usual course of nature, or (b) has occurred at a time when such change was not unlawful, (vide proviso to section 4B), or (c) has occurred due to developmental activities of the Government or of a local body in the surrounding area, or (d) due to urbanisation in the surrounding area, the applicant should be informed that the change

Biswjit Ray

X

is being noted in the record-of-rights, and the said record should be corrected accordingly in due course. If there was a reasonable cause made behind the change that occurred, the Collector may consider on the merit of the case if post-facto permission should be granted. [In this connection the expression "without any reasonable cause" in section 4(4)(a) may be referred to.] On the other hand, if it is proved that the change was deliberately made without reasonable cause after 24.03.86, the land may be vested under section 4(4)(a) or penal action may be taken under section 4D unless prosecution under section 4D is barred by limitation under the Code of Criminal Procedure.

(iii) It is apprehended that there may be many cases of unauthorised change in land-use where no application for permission to make such change has even been made. Revenue Inspectors shall make enquiries regarding such unauthorised conversion during their tour in their areas. If any such case comes to notice, penal action as contemplated in subsection (4) of section 4 or section 4D should be taken, unless the Collector grants post facto permission as mentioned in sub-rule (i) above.

(iv) While deciding a matter as mentioned in sub-rules (i), (ii) and (iii) above, the emphasis should be on the bonafides or absence of bonafides of the person making change in land-use.

I crave leave to produce the copy of the Rule 166 of the West Bengal Land Reforms Manual, 1991 at the time of hearing if necessary. A copy of the Rule 166 of the West Bengal Land Reforms Manual, 1991 is annexed hereto and marked as "Annexure B".

10. It is respectfully submitted that the aforesaid Memo No. 2392/Fish/C-III/2M-51/2009 dated 05.08.2011 issued by the Fisheries Department is still in force and no one has challenged the said Memo. Therefore, in terms of the said Memo, the Collector and/or District Magistrate ought to have issued post facto Conversion Certificate in the name of the said society and/or the subsequent purchasers of the alleged plots of land in terms of the aforesaid provision of the West Bengal Land Reforms Manual, 1991.

Biswjit Ray

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11. Save and except matters of record and save what has been stated by me hereinbefore I do not admit any statement, averment, contention, submission as made/raised in the said application as if the same are expressly denied by me in seriatim and specifically traversed.
12. That the statements made in Paragraphs No. 1 and 3 are true to my knowledge and belief and rest in paragraph no. 2, 4 and 6 are my humble submission before this Hon'ble Court.

Biswajit Ray

Signature of the Deponent is known to me

Prepared in my office

Rajdeep Bhattacharya
Advocate
WS-287/2009

solemnly affirmed and declared
before me on identification of
advocate at Alipur Judges Court,
Calcutta under Notaries Act, 1952



Rani Monjiti Roy 24.11.25

RANI MONJITI ROY
Notary, Govt. of West Bengal
Regd. No. 10/94
23.10.2028

24 NOV 2025