



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO. 79/2023/EZ

In The Matter of:

Sandip Mitra & Another

... Applicant

Versus

The State of West Bengal & Ors.

... Respondents

AFFIDAVIT ON BEHALF OF THE RESPONDENT NUMBER 4, THE DISTRICT
MAGISTRATE & COLLECTOR, HOWRAH DISTRICT.

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Filed by

Sibojyoti Chakrabarti

SIBOJYOTI CHAKRABARTI

Advocate

For The State of West Bengal

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(M): 9007035534

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EASTERN ZONE BENCH, KOLKATA
ORIGINAL APPLICATION NO. 79/2023/EZ



In The Matter of:

Sandip Mitra & Another

... Applicant

Versus

The State of West Bengal & Ors.

... Respondents

AFFIDAVIT ON BEHALF OF THE RESPONDENT NUMBER 4, THE DISTRICT
MAGISTRATE & COLLECTOR, HOWRAH DISTRICT.

I, Smt. Mukta Arya d/o Late Sri Radhey Shyam Arya, working for
gain as the District Magistrate, Howrah at P.O. & P.S. Howrah,
District Howrah Pin-711101 do hereby solemnly affirm and submit
as follows:-

1. That I have been communicated with a copy of the order in
O.A. No. 79/2023/EZ from the Learned Counsel for the State
associated with the instant case.

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

2. That this affidavit is being filed in compliance to the Solemn
Order dated 26.07.2023 passed by the Hon'ble Tribunal.

25 AUG 2023



3. That The Hon'ble National Green Tribunal, Eastern Zone Bench has been pleased to constitute a Committee vide Solemn Order dated 26.07.2023 comprising District Magistrate or his nominee not below the rank of Additional District Magistrate, Howrah, Senior Scientist, WBPCB, and Executive Engineer, Irrigation and Waterways Department in the matter. The District Magistrate, Howrah has been directed to act as the nodal agency for all logistic purposes.

4. That Pursuant to the said Solemn Order of the Hon'ble NGT, the Committee comprising of the following members was constituted as per nominations received from the participating departments/ offices.

- i) The Additional District Magistrate (Dev.), Howrah
- ii) The Environmental Engineer, Howrah Regional Office, WBPCB
- iii) The Executive Engineer-II, Lower Damodar Construction Division, Irrigation & Waterways Directorate.

5. That the members of the joint committee accompanied by the Deputy District Land & Land Reforms Officer (Dy. DLLRO) and Officer-in-Charge, Environment, Howrah; Asst. Environmental Engineer, Howrah Regional Office, WBPCB; Block

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Development Officer (BDO), Bagnan-I, Howrah and Block Land & Land Reforms Officer (BLLRO), Bagnan-I, Howrah visited the site of complaint on 18.08.2023 at 14:00 hrs.

6. That the observations of the constituted Committee as are follows:

- i) The sites as mentioned in the instant order of Hon'ble NGT comprises of three Plots - LR Dag Nos.- 181, 182 and 186 of Mouza- Shitalpur, J.L. No- 76. A summary of the land ownership details as per available land records is as follows:

Plot No	Classification as per record	Total area
181	Pukur	38 Decimal
182	Doba	05 Decimal
186	Doba	15Decimal

- ii) That the site constituting the plot no. 181 of Mouza-Shitalpur, J.L. No- 76 as physically identified by the BLLRO, Bagnan-I comprised of a water body which appeared to be a pond. No water body filling activity or other ongoing activity was observed at this site. As per information from local people and the appearance of the water body, it appears that the pond has been in continuous use for fish farming and bathing/washing activity.

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- iii) That the site constituting the plot no. 182 of Mouza-Shitalpur, J.L. No- 76 was inaccessible and hence, could not be scrutinized closely. However, parts of it were visible from the road-side behind the pond comprising plot no. 181 mentioned above, and it appeared to be a water body surrounded by embankments and mesh net fencing along its boundary. No water body filling or other ongoing activity could be observed at the site. From all appearances, it seemed to be in use for fishing activities as corroborated by some of the local residents of the area.
- iv) That the third plot, LR Dag no. 186 of Mouza- Shitalpur, J.L. No- 76, consists of about 15 decimal of land as per the land records and is classified as 'Doba'. On visual inspection, the purported site as physically identified by the Block land & Land Reforms Officer (BLLRO), Bagnan-I, was entirely covered in a dense layer of water hyacinths and other aquatic plant growths. As seen in the sketch map, this particular plot lies adjacent to another plot no. 1443 of Mouza - Khalore, J.L. No. 74, and the boundary between the two was physically demarcated by a partially submerged metal barricade-like structure. At the conjunction of these two plots, a kuccha path way branching off the main road could be observed, leading to the adjacent site on plot no.

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1443 where an under-construction overhead reservoir surrounded by a concrete boundary wall was visible. As submitted by Executive Engineer, Public Health Engineering, Howrah, the adjacent plot of land no. 1443 of Mouza – Khalore, J.L. No. 74, is being used for construction of overhead reservoir for supplying drinking water under Jal Jeevan Mission scheme. No water body filling or any other ongoing activity could be observed at the site.

- v) That based on physical measurements, the BLLRO, Bagnan-I and her team identified that a small triangular patch of land of area approximately 160 sq. ft. which now forms part of the entry pathway to the PHE construction site, belongs to plot no. 186, which forms less than 1/40th of the total plot area. The rest of the pathway belonged to the adjacent plot no. 1443. On enquiry, the committee members were apprised by local people that this portion of the plot had naturally evolved into a lowland decades ago and was traditionally being used for thoroughfare into the then vacant parcel of land in the adjacent plot no. 1443 by the local people and cattle as a passage way. This is corroborated by the written response of Executive Engineer, Public Health Engineering (PHE), Howrah.


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- vi) That through close scrutiny, the anterior portion of the kuccha pathway leading to the PHE site seemed to be covered with a few wooden planks and appeared to be filled up with soil and debris material. The Executive Engineer, Public Health Engineering PHE, Howrah submitted that strengthening works of the pre-existing kuccha pathway at the site were undertaken for facilitating movement of vehicles to the construction site as there were no alternative access roads to the site of construction. It has been further submitted by him that all works have been restricted to the construction site and the pre-existing access pathway to the site, and no water body has been filled up in the process.
- vii) That based on the above submissions, it appears that the observed strengthening of the aforementioned kuccha access pathway had been undertaken as part of the ongoing construction activities for the overhead reservoir.

7. That copy of the report submitted by the above said Committee is herein annexed as Annexure-R-1 for kind perusal of the Hon'ble Tribunal.

Identified by me


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

Subhrajyoti Chakrabarti
25/08/2023
Advocate
State of West Bengal

25 AUG 2023


Deponent
District Magistrate
Howrah



VERIFICATION:

I, the deponent above- named, do hereby verify and declare that the statements made in the aforesaid paragraphs are true and correct to the best of my knowledge and information and I believe that nothing material has been concealed there from.

Verified at " " on 25th day of August 2023.

Identified by me

Sibajyoti Chakrabarti
Advocate 25/08/2023.
State of West Bengal

Mukta Ray
Deponent
District Magistrate
Howrah

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

25 AUG 2023

Report in the matter of Original Application No. 79/2023/EZ (Regarding illegally filling up of waterbody at Mouza Shitalpur, P.S. Bagnan, Howrah, Mr. Sandip Mitra & Anr. Vs The state of West Bengal & Ors.) vide Hon'ble NGT order (Eastern Zone Bench, Kolkata) dated 26.07.2023.

The Hon'ble National Green Tribunal, Eastern Zone Bench constituted a Committee comprising District Magistrate or his nominee not below the rank of Additional District Magistrate, Howrah, Senior Scientist, WBPCB, and Executive Engineer, Irrigation and Waterways Department in the matter. The District Magistrate, Howrah has been directed to act as the nodal agency for all logistic purposes.

Pursuant to the order of the Hon'ble NGT, the Committee comprising of the following members was constituted as per nominations received from the participating departments/ offices.

1. The Additional District Magistrate (Dev.), Howrah
2. The Environmental Engineer, Howrah Regional Office, WBPCB
3. The Executive Engineer-II, Lower Damodar Construction Division, Irrigation & Waterways Directorate

Accordingly, the members of the joint committee accompanied by the Deputy District Land & Land Reforms Officer (Dy. DLLRO) and Officer-in-Charge, Environment, Howrah; Asst. Environmental Engineer, Howrah Regional Office, WBPCB; Block Development Officer (BDO), Bagnan-I, Howrah and Block Land & Land Reforms Officer (BLLRO), Bagnan-I, Howrah visited the site of complaint on 18.08.2023 at 14:00 hrs.

The observations of the constituted Committee are as follows:

1. The sites as mentioned in the instant order of Hon'ble NGT comprises of three Plots - LR Dag Nos.- 181, 182 and 186 of Mouza- Shitalpur, J.L. No- 76. A summary of the land ownership details as per available land records is as follows:

<i>Plot No</i>	<i>Classification as per record</i>	<i>Total area</i>
181	Pukur	38 Decimal
182	Doba	05 Decimal
186	Doba	15 Decimal

2. The site constituting the plot no. 181 of Mouza- Shitalpur, J.L. No- 76 as physically identified by the BLLRO, Bagnan-I comprised of a water body which appeared to be a pond. No water body filling activity or other ongoing activity was observed at this site. As per information from local people and the appearance of the water body, it appears that the pond has been in continuous use for fish farming and bathing/washing activity.
3. The site constituting the plot no. 182 of Mouza- Shitalpur, J.L. No- 76 was inaccessible and hence, could not be scrutinized closely. However, parts of it were visible from the road-side behind the pond comprising plot no. 181 mentioned above, and it appeared to be a water body surrounded by embankments and mesh net fencing along its boundary. No water body filling or other ongoing activity could be observed at the site. From all appearances, it seemed to be in use for fishing activities as corroborated by some of the local residents of the area.

4. The third plot, LR Dag no. 186 of Mouza- Shitalpur, J.L. No- 76, consists of about 15 decimal of land as per the land records and is classified as 'Doba'. On visual inspection, the purported site as physically identified by the BLLRO, Bagnan-I, was entirely covered in a dense layer of water hyacinths and other aquatic plant growths. As seen in the sketch map, this particular plot lies adjacent to another plot no. 1443 of Mouza – Khalore, J.L. No. 74, and the boundary between the two was physically demarcated by a partially submerged metal barricade-like structure. At the conjunction of these two plots, a kuccha pathway branching off the main road could be observed, leading to the adjacent site on plot no. 1443 where an under-construction overhead reservoir surrounded by a concrete boundary wall was visible. As submitted by Executive Engineer, Public Health Engineering, Howrah, the adjacent plot of land no. 1443 of Mouza – Khalore, J.L. No. 74, is being used for construction of overhead reservoir for supplying drinking water under Jal Jeevan Mission scheme. No water body filling or any other ongoing activity could be observed at the site.
5. Based on physical measurements, the BLLRO, Bagnan-I and her team identified that a small triangular patch of land of area approximately 160 sq. ft. which now forms part of the entry pathway to the PHE construction site, belongs to plot no. 186, which forms less than 1/40th of the total plot area. The rest of the pathway belonged to the adjacent plot no. 1443. On enquiry, the committee members were apprised by local people that this portion of the plot had naturally evolved into a lowland decades ago and was traditionally being used for thoroughfare into the then vacant parcel of land in the adjacent plot no. 1443 by the local people and cattle as a passage way. This is corroborated by the written response of Executive Engineer, PHE, Howrah.
6. On close scrutiny, the anterior portion of the kuccha pathway leading to the PHE site seemed to be covered with a few wooden planks and appeared to be filled up with soil and debris material. The Executive Engineer, PHE, Howrah submitted that strengthening works of the pre-existing kuchha pathway at the site were undertaken for facilitating movement of vehicles to the construction site as there were no alternative access roads to the site of construction. It has been further submitted by him that all works have been restricted to the construction site and the pre-existing access pathway to the site, and no water body has been filled up in the process. Based on the above submissions, it appears that the observed strengthening of the aforementioned kuccha access pathway had been undertaken as part of the ongoing construction activities for the overhead reservoir.

Additional District Magistrate (Dev.)
Howrah

Environmental Engineer
Howrah Regional Office
WBPCB

Executive Engineer-II
LDC Division



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GOVERNMENT OF WEST BENGAL
Office of the District Magistrate, Howrah

Memo No. NGT/05/2023/2600 /LR

Date: 14.08.2023

ORDER

With reference to the order of the Hon'ble National Green Tribunal dt. 26.07.2023 in OA 79/2023/EZ, Azar Zia, I.A.S., Additional District Magistrate (Development) is hereby nominated for the committee as formed by the Hon'ble National Green Tribunal on behalf of the District Magistrate, Howrah.

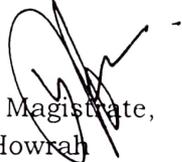

District Magistrate,
Howrah.

Memo No. NGT/05, 2023/2600(1/2)/LR

Date: 14.08.2023

Copy forwarded for information & taking necessary action to:

1. The Senior Environmental Officer, Howrah Circle, West Bengal Pollution Control Board.
2. The Executive Engineer-II, Lower Damodar Construction Division, Howrah.


District Magistrate,
Howrah



GOVERNMENT OF WEST BENGAL
OFFICE OF THE DISTRICT MAGISTRATE, HOWRAH.

NOTICE

The Hon'ble National Green Tribunal in connection with O.A. No. 79/2023/EZ in the matter of Sandip Mitra & anr. vs The State of West Bengal & ors. on 26.07.2023 was pleased to constitute a committee to examine the visit and inspect the site as mentioned in the instant order.

In this connection such inspection of the constituted committee will be held on **18.08.2023 (Friday) at 12:30 p.m.** at the site as mentioned in the instant order.

All concerned are therefore, requested to be present positively.


District Magistrate
Howrah

Memo No. NGT/05/2023/2598 /LR

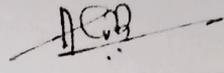
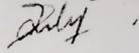
Date: 14.08.2023

Copy forwarded for information to:

1. The Senior Environmental Engineer, Howrah Circle, West Bengal Pollution Control Board.
2. The Executive Engineer-II, Lower Damodar Construction Division, Howrah.
3. The Block Land & Land Reforms Officer, Bagnan I, Howrah.


District Magistrate,
Howrah

ATTENDANCE SHEET FOR JOINT INSPECTION IN THE MATTER OF SANDIP
 MITRA & ANS - VS- THE STATE OF WEST BENGAL AND ORS. VIDE O.A. NO.
 79/2023/EZ OF NGT ON 18/07/2023 AT 12.30 P.M AT BAGNAN, HOWRAH

SL NO	NAME	DESIGNATION	SIGNATURE
1)	SRI. AZAR ZIA, IAS	ADM (DEV.), HOWRAH	
2)	RITA DATTA	Env. Engr, Howrah RO WBPCB	R Datta.
3)	ANJAN MONDAL.	Executive Engineer-II, Lower Damodar Constrn Divn. E & W DTL.	
4)	Prasanta K. Maity	Dy. DL & LRO, Howrah	
5)	SUCHETA DAS	BL & LRO Bagnan - I	
6)			
7)			
8)			



GOVERNMENT OF WEST BENGAL
OFFICE OF THE DISTRICT MAGISTRATE, HOWRAH.

No. NGT/05/2023/2651/1/LR

Date:18.08.2023

To
The Executive Engineer,
Public Health Engineering,
Howrah.

Sub: Notice of Hearing in connection with O.A. No. 79/2023/EZ in the matter of Sandip Mitra & anr. vs The State of West Bengal & ors of Hon'ble NGT

You are requested to kindly make it convenient to attend a hearing before the Committee constituted as per the direction of Hon'ble NGT in connection with O.A. No. 79/2023/EZ in the matter of Sandip Mitra & anr. vs The State of West Bengal & ors, at the Office Chamber of the undersigned at 4.00 P.M. on 22.08.23.

A. S.
***Addl. District Magistrate (Dev)
Howrah***

Memo No. NGT/05/2023/2651/1(4)/LR

Date:18.08.2023

Copy forwarded for information to:

1. The Executive Engineer-II, Lower Damodar Construction Division, Howrah
2. Environment Engineer, Howrah Regional Office, WBPCB
3. CA to District Magistrate
4. CA to Addl District Magistrate (Dev), Howrah

A. S.
***Addl. District Magistrate (Dev)
Howrah***



GOVERNMENT OF WEST BENGAL
OFFICE OF THE DISTRICT MAGISTRATE, HOWRAH.

Memo No. NGT/05/2023/ 2690/1/LR

Date:22.08.2023

To
The Executive Engineer,
Public Health Engineering,
Howrah.

Sub: Detailed submission in support of statements made during the hearing conducted on 22.08.23 in connection with O.A. No. 79/2023/EZ in the matter of Sandip Mitra & anr. vs The State of West Bengal & ors of Hon'ble NGT

Ref: Notice No. NGT/05/2023/2651/1/LR dated 18.08.2023

With reference to the proceedings of the hearing conducted by the Committee constituted by the Hon'ble NGT in connection with O.A. No. 79/2023/EZ in the matter of Sandip Mitra & anr. vs The State of West Bengal & ors on 22.08.23 at the office chamber of the undersigned, you are hereby directed to provide a detailed submission in favour of your statements made during the hearing along with all relevant supporting documents at the earliest.

This is for your kind information and necessary action.

This may kindly be treated as **URGENT**.

**Addl. District Magistrate (Dev)
Howrah**

Memo No. NGT/05/2023/2690/1(4)/LR

Date:22.08.2023

Copy forwarded for information to:

1. The Executive Engineer-II, LDC, Howrah
2. Environment Engineer, Howrah Regional Office, WBPCB
3. CA to District Magistrate
4. CA to Addl District Magistrate (Dev), Howrah.

**Addl. District Magistrate (Dev)
Howrah**



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GOVERNMENT OF WEST BENGAL
Office of the District Magistrate, Howrah

Memo No. NGT/05/2023/2599 /LR

Date: 14.08.2023

To
The Sub-Divisional Officer,
Uluberia.

Sub: Compliance of the order dated 26.07.2023 of Hon'ble National Green Tribunal passed i.c.w. OA/79/2023/EZ.

With reference to the Order of the Hon'ble National Green Tribunal dated - 26.07.2023 in the above mentioned matter, you are directed to ensure that the water body as mentioned in the instant order is not filled up. The instant order is provided herein.

Encl: As stated.

Yours faithfully,

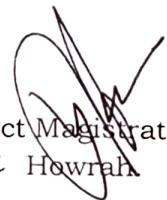

District Magistrate,
Howrah.

Memo No. NGT/05/2023/2599/1(2)LR

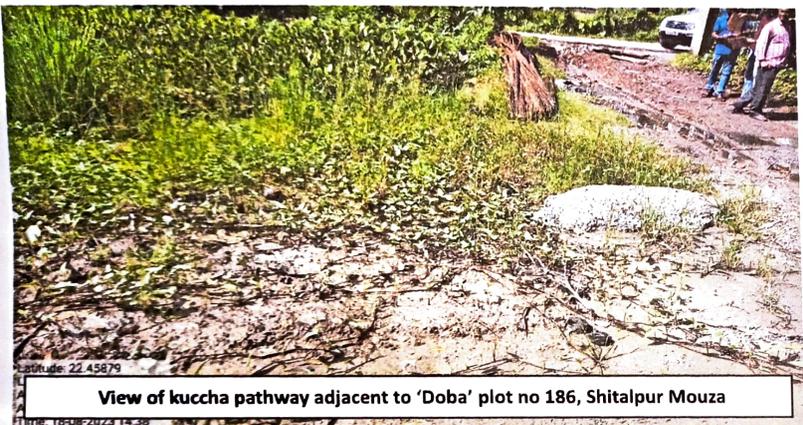
Date: 14.08.2023

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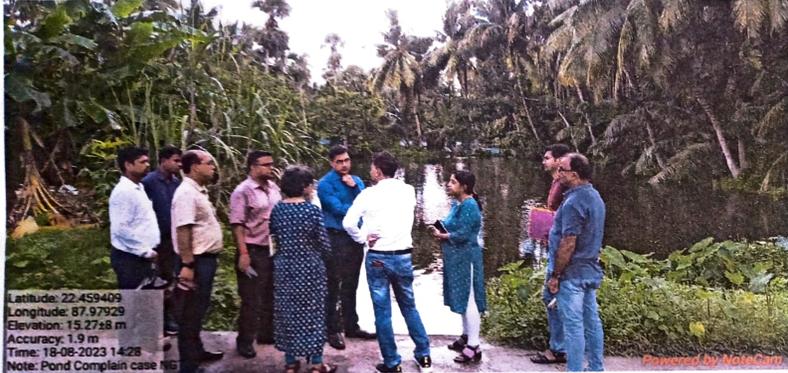
1. The Block Development Officer, Bagnan - I - for necessary action.
2. The Officer-in-Charge, Bagnan-P.S. - for necessary action.


District Magistrate,
Howrah.

Present Condition of the Kuccha Access Pathway to PHE Construction site



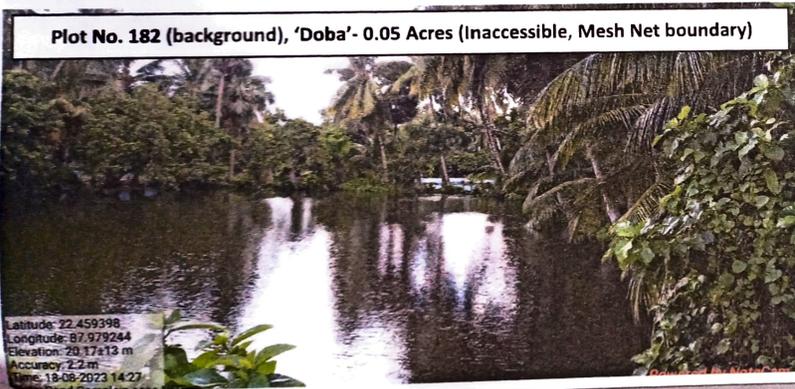
Plot No. 181, Shitalpur – ‘Pukur’ – 0.38 Acres (Committee Visit)



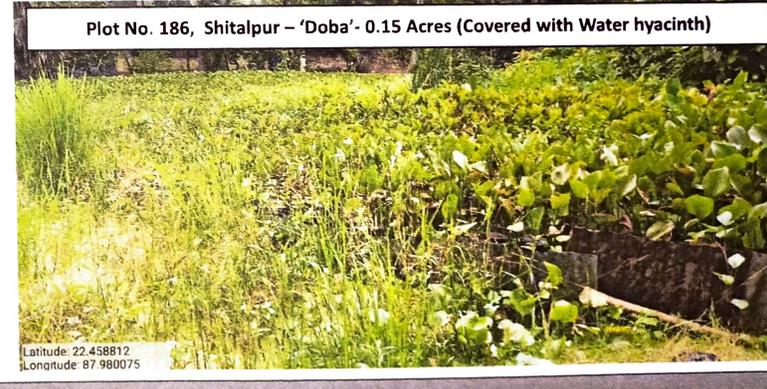
Kuccha Access Pathway from main road adjacent to Plot No. 186, Shitalpur



Plot No. 182 (background), ‘Doba’- 0.05 Acres (Inaccessible, Mesh Net boundary)



Plot No. 186, Shitalpur – ‘Doba’- 0.15 Acres (Covered with Water hyacinth)



Visit of Committee to site of alleged filling of water body on 18.08.2023



Dist - Howrah, P.S- Bagnan, Mouza - Shitalpur, J.L. No.- 76

R.S.& L.R. Dag No.- 181 Classification - Pond

Total Area - 38 Decimal Shown in Blue Colour

R.S.& L.R. Dag No.- 182 Classification - Doba

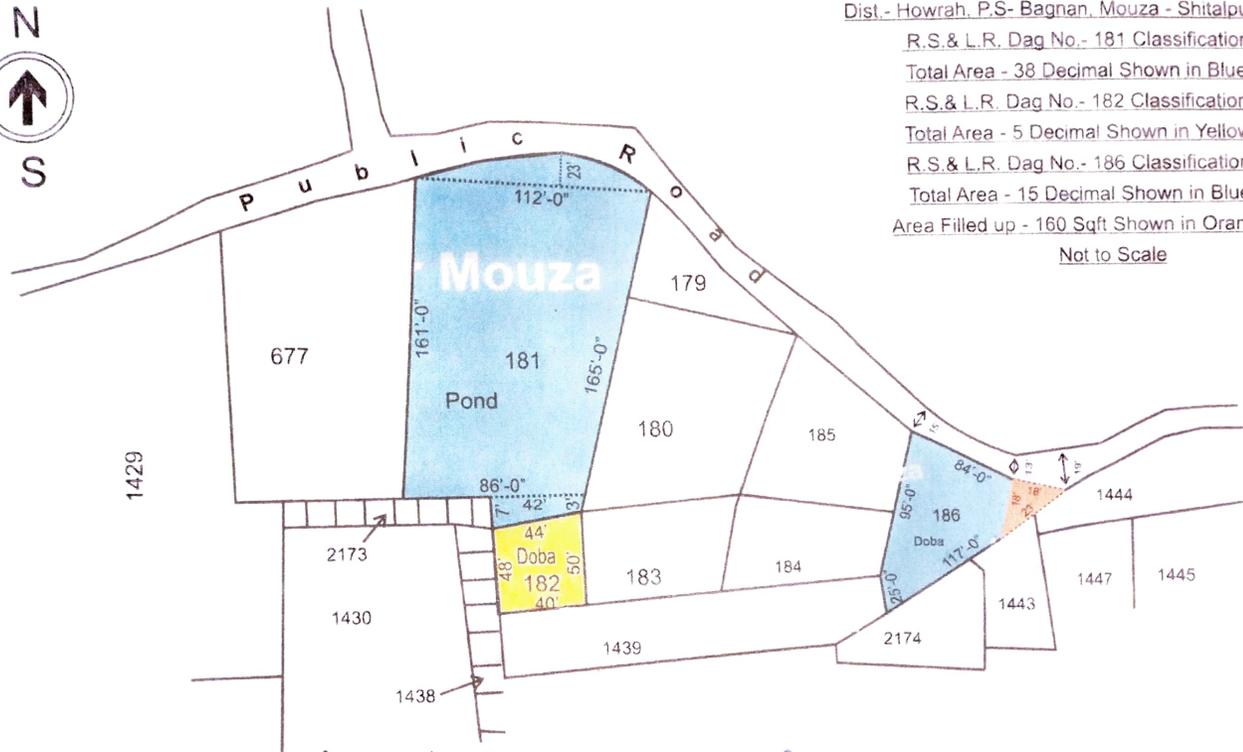
Total Area - 5 Decimal Shown in Yellow Colour

R.S.& L.R. Dag No.- 186 Classification - Doba

Total Area - 15 Decimal Shown in Blue Colour

Area Filled up - 160 Sqft Shown in Orange Colour

Not to Scale



Drawn by :-

Jayanta Goswami
Amin

21/8/23
Block Land & Land Reforms Officer
Bagnan- I, Howrah

Pre-existing Pathway



HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA

O. A. NO. 79/2023/EZ



In The Matter of:

Sandip Mitra & Anr.

... APPLICANT

VERSUS

The State of West Bengal & Ors.

... RESPONDENT(S)

AFFIDAVIT ON BEHALF OF THE
RESPONDENT No. 04, DISTRICT
MAGISTRATE & COLLECTOR, HOWRAH
DISTRICT.

SIBOJYOTI CHAKRABARTI

Advocate

For The State of West Bengal

Email: subho.advocate@gmail.com

(M): 9007035534.