

24/23
BEFORE THE NATIONAL GREEN TRIBUNAL (EASTERN ZONE)

KOLKATA BENCH
OA NO. 152 / 2022 EZ

IN THE MATTER OF:

ANKUR SHARMA

APPLICANT
VERSUS

STATE OF WEST BENGAL & ORS.

RESPONDENTS

COUNTER-AFFIDAVIT ON BEHALF OF
RESPONDENT NO. 7

Kamal Das
filed by:
Suparna Roy Das,
(Advocate)



I, Kamal Das, aged about 60 years, son of Bijay Krishna Das, r/o 21 / H / 37 / 5, Raja Manindra Road, Belgachia, Kolkat - 700037, hereby solemnly state and affirm as follows:

1. That I am the President of the Patipukur Fish Market Owners' Welfare Association and am conversant with the facts of this case and am competent to swear this affidavit before this Hon'ble Tribunal.
2. That the present application is devoid of merits and has targeted a specific community of businessmen and is hence, discriminative and liable to be dismissed.
3. That at the outset all matters of maintaining the fish market is taken care of by the "B. K. Paul Bazar Paikary Matsya Byabasayee Samity", and is the subject matter of the instant application is not handled by the respondent no. 7. Moreover, in the west side of the building of the market, there is another samity, named "Patipukur Bazar Khujro Byabshayee Samity" which includes about 86 businesses which also maintains the premises of the market and looks after the hygiene. The main function of the respondent no.

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7 is to look after the welfare of the business owners inside the said market. It is apparent that the applicant not being conversant well with the facts of the matter and has hurriedly filed the instant applicant out of sheer passion or any other reason best known to the applicant. As such, the instant application qua the respondent no. 7 is liable to be dismissed on the ground of misjoinder of parties and non-joinder of necessary party.

4. That Patipukur Fish Market / B.K. Paul Fish Market has been functioning even before the independence of India and has been functioning with great efficiency and care for the surroundings. The fish market starts function from about 3AM in the morning when trucks arrive in the market premises and the fish supplies are taken by the businessmen and are sold inside the market building and not outside in the public premises.

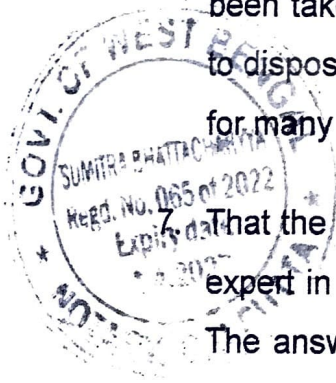
5. That the fish waste are never dumped in the public premises. It is a fact that fish as a product is watery in nature and there will always be water left in the surroundings where fish is being sold, but that does not mean that the businesses are deliberately making a place unhygienic.

6. That it is pertinent to mention here that the Kolkata Municipal Corporation had given a specific dumping bin to the respondent no. 7 for dumping of organic wastes, but after the initiation of these proceedings, that facility has been taken away from the respondent no. 7, thus compelling the deponent to dispose of their wastes far away from the market, which becomes difficult for many businessmen.

7. That the averments in para 1 are matters of record. The applicant is not an expert in this subject and has preferred the instant application for publicity. The answering respondent has also fetched information that the applicant mostly functions in New Delhi, as an Advocate, and does not have any interest in the so called "cause" of the instant application. On bare perusal of the address of the applicant, the applicant does not even stay in the vicinity of the fish market, yet he has preferred to file this application before this Hon'ble Tribunal. It is submitted that the applicant has no *locus standi* to file the instant applicant and as such, the instant application is liable to be dismissed with cost upon the applicant.

Kannuldas
Filed by:

Suparna Roy Das.
(Advocate)

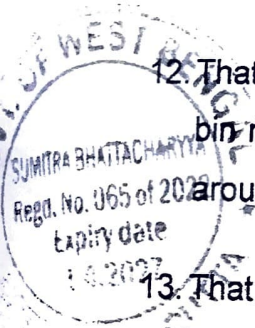


8. That the statement in para 2 are matters of record and require no reply.
9. That in reply to paras 3 to 9 of the instant application, it is submitted that this market is one of the oldest markets in the city of Kolkata and has been functioning till date with little or no objection from the people living in its vicinity. The businessmen maintain absolute decorum as far as hygiene is concerned, hence, people actually prefer buying fish from this market other than any other market, since this market is well reputed to sell fresh and the best quality fish in Kolkata. Till date, the respondent no. 7 and its members maintain cleanliness as much as possible. Some photographs of the efforts of the answering respondent to keep the premises clean are annexed herewith and marked as **Annexure R-1**.
10. That the allegation in para 10 does not relate to the answering respondent, hence, needs no reply.
11. That the averment in para 11 is a whimsical statement made by the applicant. It cannot be said that this market is tarnishing the image of this city since the market is functioning in clean conditions and is hygienic. As such, the instant application is liable to be dismissed as being devoid of merits.
12. That it is submitted that the KMC has also kept an open garbage dumping bin near the market area which ought not to be kept for maintain clean air around the market.
13. That the statements in para 12 to 28 are matters of record. All allegations against the respondent no. 7 are denied of being devoid of merits and proof. It is submitted that there are about 1 lakh people who earn their livelihood through this market, not only in Kolkata, but also outside this city, who come to the market every single day of their lives. Inside the market, which is in the control of the answering respondent, the respondent has taken every step to maintain hygiene which makes this market one of the most preferred markets for fish in Kolkata. People come to buy fish from here from tens of kilometers away. When it comes to maintaining hygiene and waste processing and cleanliness in public areas, the answering respondent does not make illegal dumping of waste here and there, but dumps waste only in the space provided by the State of West Bengal. After

Kamul Das

Attd by:

Suparna Roy Das
14.11.11



dumping, how the waste is processed is not under the control of the answering respondent, hence, the answering respondent cannot be held liable if such wastes as not processed in the right manner. It is also pertinent to mention here that it is the duty of the State of West Bengal to provide adequate infrastructure to markets like the respondent no. 7 to ensure that the environment is clean and that there is no pollution that takes place. The answering respondent does not have power under any law to process their own waste. As such, the instant application qua the respondent no. 7 is liable to be dismissed.

Kumal Das

14. That the statements made in paras 1 to 14 are true to the best of my knowledge and beliefs and nothing material is concealed thereof.

DEPONENT

Kumal Das

Identified by me

Suparna Roy Das
Advocate

Enrollment No: WB/330/456/14

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

Sumitra Bhattacharyya
Notary

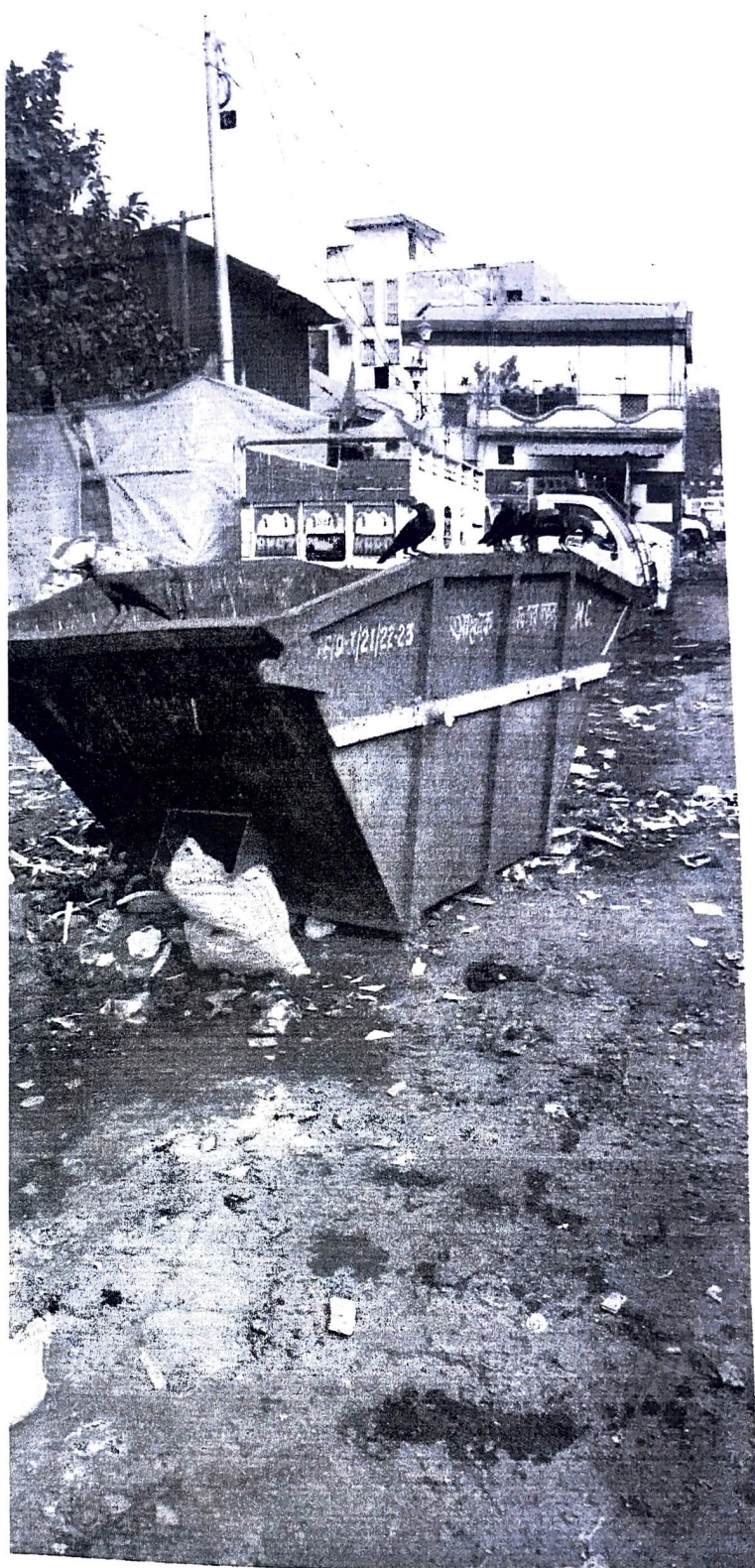
Sumitra Bhattacharyya
Notary, Gov. of W.B.
Regd. No. 065 of 2022
City Civil Court, Calcutta

02 MAR 2023





GOVT. OF WEST BENGAL
SUMITRA BHATTACHARYYA
Regd. No. 065 of 2022
Expiry date
1.4.2027
NOTARY PUBLIC



WATER SUPPLY DEPARTMENT
CALCUTTA
No. 025 of 2022
EXPIRY DATE
1.2027

