

S.L. NO. 11

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH, KOLKATA

Original Application No. 108 / 2021 / EZ

IN THE MATTER OF:-

Rasulpur Dana Welfare Society

.... Applicant

VERSUS

West Bengal Pollution Control Board & Ors.

.... Respondents

COUNTER AFFIDAVIT ON BEHALF OF DIBAKAR GHOSH ALSO

KNOWN AS HARU GHOSH BEING THE RESPONDENT NO. 8

HEREIN



ADVOCATE FOR THE RESPONENT No. 7

SANKAR PAUL  
Advocate

Calcutta High Court Bar Association Room No. 18, Kolkata -  
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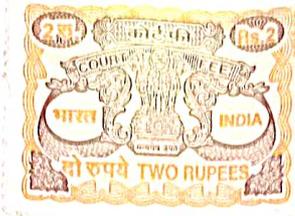
Received  
Sankar Paul  
for the Respondents  
26/4/22

Received  
Dibakar Ghosh  
WBPCB  
26/4/22

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HEREIN

I, Dibakar Ghosh also known as Haru Ghosh, Son of Taraknath Ghosh, aged about 73 years by religion – Hindu, by occupation – unemployed at present residing at village – Paschim Rasulpur Post Office – Rasulpur, Police Station – Memari, District - Purba Bardhaman, PIN – 713151 do hereby solemnly affirm and say as follows:-

1. I say that I am the respondent No. 8 in the above referred case and as I am well acquainted with facts and circumstances with the case, I am competent to affirm.

2. That on April 08, 2022 I have been directed to appear before the Officer -in-charge of Memari Police Station, Purba Bardhaman and accordingly I went to the concerned Police Station at about 7 PM thereof and I met with said Officer-in Charge of the said police Station wherefrom I could learned that I have been arrayed party as Respondent No. 8 herein in respect of alleged filled up of one pond lying and situated at Dag No 463 of Mouza Baidyadanga, J. L. No. 135 Khatian No. 148 within the local limits of Memari police Station, Purb Bardhaman and at that material point of time I also came to know that on the same self day one inspection was acused by the Additional District Magistrate and District Land and Land Reforms Officer caused inspection thereof. It is pertinent to mention here that upon coming to know about the instant case as well as parties hereof I collected a copy of the said Original Application of the instant case from One Parbati Kumar Ghosh being the Respondent No. 7 herein and upon receiving the said Original Application (hereinafter called and referred to as the said application) together with an Order being dated November 18, 2021 passed in present case and in response thereto the present counter affidavit is filed.

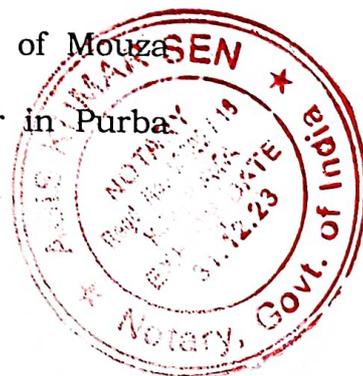
3. That at the very outset, the Respondent No. 8 denies and disputes the alleged leveled against him and purported statements



made in different paragraphs of the said application being raised on behalf of the applicant. However nothing may be deemed to have been admitted on his part unless a specific admission is made herein.

4. I say that before dealing with different paragraph of the said Application I could like to draw the kind attention of the Hon'ble Tribunal in the following factums:-

- I. I, any material point of time, am neither the owners nor in possession of the land in question in respect of which I have been made parties in the instant case.
- II. I, since my birth, use to reside at the addresses mentioned in the cause title permanently which is other than the said plot of land being Dag No 463 of Mouza Baidyadanga, J. L. No. 135 Khatian No. 148 within the local limits of Memari Police Station, Purb Bardhaman and far from my addresses.
- III. I have no connection with subject plot of land being classified as alleged pond in the record of the Block land and Land Reforms Department.
- IV. Since I have no connection with regard to the said plots of land being comprised in dag No. 25 and 463 of Mouza Baidyadanga under Memari Block - I, Rasulpur in Purba



Bardhaman, the instant application is bad for mis - joinder of parties

V. I being a senior citizen of India at present aged about 73 years of age have been harassed by the applicant herein, by way of making party in the instant case wherein I neither any interest nor have any right, title in respect of the subject land and/or pond but for nothings at this age I have to visit local police station as well as this Hon'ble Court only owing to the intention wrong committing unto me and giving undue harassment which is not at all enshrined by any statute of our country.

5. With reference to the paragraph Nos. 1 and 2 I state that since those are matter of record, he does not want to make any comment in respect thereto.

6. I deny and dispute the alleged and purported statements made in paragraph No. 3 of the said application in toto and I traverse the alleged statements of the said paragraph No. 3 of the application in the following manner:-

I. That there are ponds in dag Nos. 463 and 25, J.L. No. 135 Mouza Baidyadanga under Memari - I Block in Purba Bardhaman having there width banks and/or edges from the

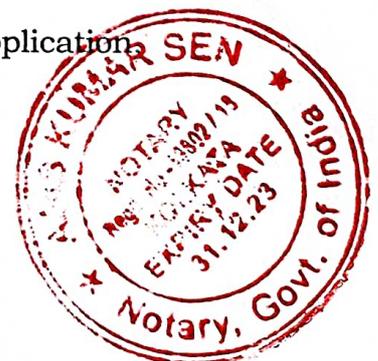


very date of their inception of excavation. It is pertinent to mention here that although the classification of land upon which the said two ponds are lying, have been mentioned as PUKUR in the L.R. record of the respondent No. 3 herein, the ponds as mentioned were not excavated covering the entire respective lands rather the said existing ponds which stands in their present nature and form, have been all along remained the same from its inception.

- II. That there has not ever arisen any such event and/or situation by which the said ponds allegedly could have been converted into garbage dumps, on the contrary I along with the other co-sharers of the said ponds use to maintain well and/or clean the water of the said ponds thereby making usable and/or suitable thereof so that the said ponds are remained unpolluted.
- III. That a concocted story has been made out in the said application for creating undue pressure upon the respondents including the deponent so that some people in the locality under the shadow of the Rasulpur Dana Welfare Society being the applicant herein can take undue advantage for their wrongful gain thereby claiming the said ponds to be a public property.



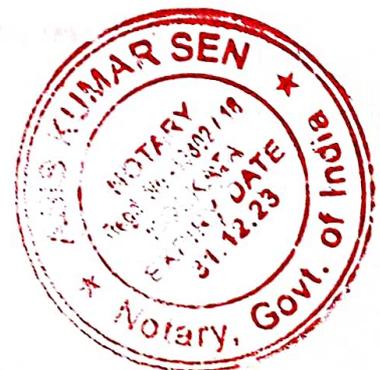
- IV. That The said pond is well usable for fishing farming as also natural creature including aquatic animal, insects as such the said ponds have neither become breeding grounds of mosquitoes and flies not turned into cheapest and convenient refuse disposal systems and more it has not been indiscriminate loading of waste materials rather the said ponds have capacity of balancing ecology in respect of aquatic system.
- V. That some time in the year 2016 (a) Rama Guha, (b) Swarup Chatterjee, (c) Nandita Biswas, (d) Sandip Das, (e) Niladri Das (f) Abha Das, (g) Parul Borua and (h) Madhuri Barua whose names are appearing in the applications and/or representations being annexed to the said application, with some ulterior motive, have made several applications on diverse dates to the authorities concerned being the respondent Nos. 2, 3, 5 and 6 on some false and frivolous allegations thereby causing wrongful loss to the deponent and his co-sharers by way of converting the privately occupied ponds of the deponents along with the other co-sharers into the ponds to be used for the public in the locality which is apparent from the annexure - 'G' of the said Application.



VI. That the aforesaid (a) Rama Guha, (b) Swarup Chatterjee, (c) Nandita Biswas, (d) Sandip Das, (e) Niladri Das (f) Abha Das, (g) Parul Borua and (h) Madhuri Barua being failed to achieve their unholy gain by way of making the application/representation on the ground of the alleged filling up of the said ponds, they have taken out the instant application on such a false and frivolous alleged grounds not being sustainable in law as well as facts.

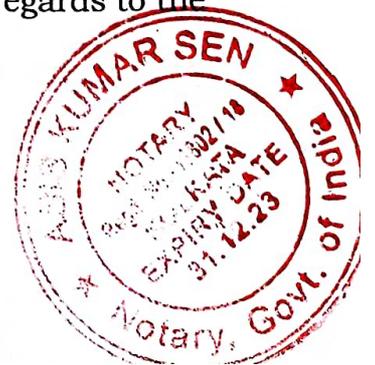
VII. That the present Original Application has been made before this Hon'ble Tribunal without following the due process of law as enshrined in the provisions of Section 18 of the National Green Tribunal Act 2010, the applicant has never made any application to the concerned authorities being the respondent Nos. 2, 3, 5 and 6 herein rather relied upon some application which had been written some people of the locality as such the present original application is not maintainable able in its present form.

7. With reference to the paragraph Nos. 4 (A) and 4 (B) of the said application, since those are matter of records I do not want to make any comments in that regard.



8. With reference to the paragraph No. 4(C) I deny and dispute the alleged and purported statements therein in toto. I say that I have not done any act which may have adversely affected the very nature of the aforesaid ponds inasmuch as I along with my other co-sharers use to take up cleaning process thereof from time to time. It is pertinent to mention here that the area of ponds which were excavated in its inception, are still remaining same in comparison to its originality. I deny and dispute the alleged and purported statement that the pond lying in dag No. 463 has become breeding grounds of mosquitoes and flies and it has turned into cheapest and convenient refused disposal system on the contrary I say that the said pond is well maintained and being used for fish farming and also has its balance of echo system. I put the applicant to the strictest proof as regards to such allegations leveled against me.

9. I deny and dispute the alleged and purported statements made in paragraph Nos. 4 (D) and 5 (E) of the said application in toto. I say that no such event has ever happened as and when I have taken part to fill up the said pond on the contrary I say that since neither I am the owner nor have any right , title and interest thereof, I have never taken part in the activities with regards to the said plot of land/pond.



10. With reference to the statement to the statement made in paragraph No. 4 (F) I say that since those are matter of records I do not want to make comment in that regard.

11. With reference to the statement made in paragraph No. 4 (G) I say that although it is matter of record but I would like to say that the mode of uses and /or changes of the classification of land has been specifically dealt with in the relevant provisions of the West Bengal Land Reforms Act 1955 as amended upto date as such this Hon'ble Tribunal has no jurisdiction to entertain such application of changes of mode of uses of the land. It is pertinent to mention her that in order of the District Land & Land Reforms Officer in respect of changes of mode of use of land is appealable to the West Bengal land & land Reforms Tribunal as such no question as such changes of mode of uses of land can be initiated and/or raised before this Hon'ble Tribunal.

12. I deny and dispute the alleged and purported statements made in paragraph No. 4(H) of the said application in toto. I say that a concocted story had been cooked in the complaint dated 04.02.2019 thereby making an attempt for converting the said private owned ponds to public purpose by way of depriving the right of the deponent thereof. The complaint dated 04.02.2019



reveals that in front of the said pond one Jayjatri Sangha Club is situated wherein Football coaching going on as also a baby league would be arranged therein. Upon completion of the said coaching, the said pond is required for being cleaned up the said attendants in the coaching as also for the purpose of swimming of the children in the locality. I further say that the said complaint dated 04.02.2019 had been disposed of by the Block Development Officer, Memeri – I Purba Bardhaman. It is apparent from the said complaint, the whole purpose being lodged is only to attain the goal of making the said pond into a public one so that the applicant and its officials could have used the same for their own purpose under the garb of alleged welfare society.

13. I say that since the statements made in paragraph No. 4 (I) of the said application are matter of record I do not want to amek any comment in that regard.

14. I deny and dispute that alleged and purported statements in paragraph Nos. 4 (J) and 4 (K) of the said application in toto. Since I have knowledge as such alleged assurance or the said alleged hearing of the said complaint as mentioned in the paragraph No. 4 (KO I do not want to make any comment in that regards.



15. I deny and disputes the alleged and purported statement made in paragraph No. 4 (L) of the said application in toto. I say that there has been no such collusion alleged to have been made with any local body or authorities so as to change the basic nature and character of the said water bodies.

16. with regard to the statements made in paragraph Nos. 4 (M), 4(N), 4 (O) and 4 (P) I say that the judgment of the Hon'ble Apex Court cited therein by the applicant has no manner of application in the facts and circumstances of the present case and as such ratio of law enacted therein is quite distinguishable.

17. I deny and dispute the alleged and purported statements made paragraph No. 5 of the said original application save and except those are matter of record and judicial notice.

18. With reference to the statement in paragraph No. 6 of the said application I say that the instant application is barred by Limitation and I deny that the statement as to cause of action has ever happened.

19. I submit that the said application is bad in law harassing one for misjoinder of party and as such fails the same.

20. With reference to the interim prayer and prayer made in paragraph Nos. 7 and 8 respectively of the said application I



submit that since such no cause of action as alleged in the said application against me, has ever arisen at any material point of time and as such the said applicant is not entitled to get any relief from this Hon'ble Tribunal and as such the present proceedings arising out of the said Application is liable to be dismissed in limini with costs.

21. That the statements made in the forgoing paragraph Nos. 1 to 18 of the instant counter affidavit are true to my knowledge and those contained in paragraph Nos. 19, 20 and the rest portions thereof are my respectful submissions made before this Hon'ble Tribunal.

*Dilekhar Ghosh,*  
*alias Haru Ghosh,*

Prepared in my office

*Somen Sen*

Advocate

Deponent is identified by me

*Somen Sen*

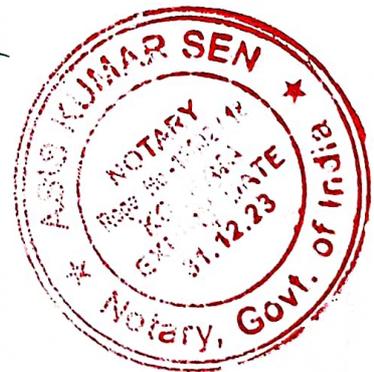
Advocate

Solemnly affirmed and declared  
before me on Identification

*Asis Mr. Sen*

**ASIS KUMAR SEN**  
City Civil Court, Kolkata  
Notary  
Reg. No.-13882/18

**25 APR 2022**



## VERIFICATION

I I, Dibakar Ghosh also known as Haru Ghosh, Son of Taraknath Ghosh, aged about 73 years by religion – Hindu, by occupation – unemployed at present residing at village – Paschim Rasulpur Post Office – Rasulpur, Police Station – Memari, District - Purba Bardhaman, PIN – 713151 do hereby declare that I am the respondent No. 8 in the instant case and as I am well acquainted with the facts and circumstances of the case, I do verify that the statements made in the forgoing paragraph Nos. 1 to 18 of the instant counter affidavit are true to my knowledge and those contained in paragraph No. 19, 20 and the rest portions thereof are my respectful submissions made before this Hon'ble Tribunal and I sign this verification at my Learned Advocate's on this the 25<sup>th</sup> April, 2022.

Prepared in my office

*Samadoul*  
Advocate

*Dibakar Ghosh.*  
*Haru Ghosh,*





*Dibakar Ghosh*  
*Advocate*



# VAKALATNAMA

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

Original Application No. 108 / 2021 / EZ

Rasulpur Dana Welfare Society

.... Applicant

VERSUS

West Bengal Pollution Control Board & Ors.

.... Respondents

Vakalatnama on behalf of Dibakar Ghosh also known as Haru Ghosh, Respondent No. 8 in the above referred case knows all men be these presents that by this vakalatnama I/we appoint the Advocates Pleaders noted below as my/our lawful Advocate for filing the memorandum of appeal or petition or for entering appearance in the above matter for appearing and conducting and arguing the same for depositing or withdraw any money in connection therewith, for moving the court in any matter connected therewith for preparing the paper book in the case and for putting in papers, petition etc. on my/our behalf for filling or taking back any documents for withdrawing suits or appeals or petitions with permission to institute fresh suits, appeal, petition etc. for signing and filing the petition of compromise in connection with the said matter and for taking copies of papers from the Record and I/we further say that any act done my/our said advocate after accepting this vakatalnama, shall be considered as my/our own true and lawful act

And I/we further hereby agree and undertake to pay the said advocate his fees as settled and all other terms that may be necessary to carry out the requisition of court and otherwise to enable the said advocate to conduct the said case properly, failing which the said advocate after notice to me /us will be at liberty to withdraw from the further conduct of the case.

IN WITNESSS WHEREOF I/we sign and execute this vakalatnama, on this the \_\_\_\_\_ day of April, 2022.

**NAME OF THE ADVOCATE**

**SANKAR PAUL**

Advocate

**SUPRIYA DUTTA**

Advocate

*Supriya Dutta*  
Advocate

Calcutta High Court Bar Association Room No. 18,  
Kolkata 700001,  
Mobile: 08697395538 / 09002891913,  
E-mail: paulsankar16@gmail.com

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

Original Application No. 108 / 2021 / EG

Applicant: *Banglapada Welfare Society*

*Received the Vakalatname  
from the executant directly and  
accepted the same by me*

*Somnath  
Advocate*

*Accepted as above  
Supriya Dutta  
Advocate*

IN WITNESS WHEREOF I have signed and executed this Vakalatname on this the \_\_\_\_\_ day of April, 2023.

NAME OF THE ADVOCATE

SOMNATH

SUPRIYA DUTTA

Advocate  
National Green Tribunal  
Eastern Zone Bench  
Kolkata