

Sl. No. 53/22

BEFORE THE HONBLE 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 PARBATI GHOSH BEING
THE RESPONDENT NO. 7 IN THE ABOVE REFERRED CASE

ADVOCATE FOR THE RESPONENT No. 7

SANKAR PAUL
Advocate

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THE RESPONDENT NO. 7 HEREIN

I, ^{Parbati Kumar Ghosh} Parbati Ghosh, Son of Nitya Gopal Ghosh, aged about _____ years
by religion - Hindu, by occupation - Retired person at present
residing at village - Baidyadanga, 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. 7 in the above referred case and I am well acquainted with facts and circumstances with the case.
2. That I have received a notice dated November 27, 2021 being enclosed therewith a copy of the above referred Original Application (hereinafter called and referred to as the said application) together



with an Order being dated November 18, 2021 passed in present case through post on December 17, 2021 and in response thereto the present counter affidavit is filed.

3. That at the very outset, the Respondent No. 7 denies and disputes the alleged 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. With reference to the paragraph Nos. 1 and 2 the respondent No. 7 states that since those are matter of record, he does not want to make any comment in respect thereto.

5. I deny and dispute the alleged and purported statements made in paragraph No. 3 of the said application 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.

6. 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.

7. 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. 25 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.

8. 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 I along with my co-sharers being the owners of the aforesaid ponds in order to discharge our liability we take up cleaning process from time to time along with our attempt in that regard some time has been frustrated due to the carelessness and unawareness of the locality.

9. 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.

10. 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.

11. 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.

12. 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.

13. I deny and dispute that alleged and purported statements in paragraph Nos. 4 (J) and 4 (K) of the said application in toto. I say that no such assurance on the part of the respondent No. 7 being the deponent herein had ever been given for restoring the said water body since no filling up of the said pond had ever been commenced as yet by the deponent.

14. 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

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with any local body or authorities so as to change the basic nature and character of the said water bodies.

15. 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.

16. 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.

17. 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.

18. 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, 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

19. That the statements made in the forgoing paragraph Nos. 1 to 17 of the instant counter affidavit are true to my knowledge and those contained in paragraph No. 18 and the rest portions thereof are my respectful submissions made before this Hon'ble Tribunal.

Prepared in my office
Identified by me

Smeantant
Advocate

Pankaj Kumar Ghosh
Deponent is identified by me

Smeantant
Advocate

L.T.I.(s) Signatures(s) of the
Exerutant/s attested by me on identification

[Signature]
VARENDRA PRASAD GUPTA, NOTARY
Advocate, High COURT, KOLKATA
Regd. No. 13823/2018, Govt. of India

VARENDRA PRASAD GUPTA
NOTARY
GOVERNMENT OF INDIA
REGD. NO. 13823/2018
ADVOCATE, HIGH COURT CALCUTTA
8, Old Post Office Street (Ground Floor)
In Front of E-Gate (High Court)
MOB. - 8910575674
9883135000

05 JAN 2022

NOTARY

VERIFICATION

I, Parbati Ghosh, ^{alias Parbati Kumar Ghosh} Son of Nitya Gopal Ghosh, aged about _____ years by religion - Hindu, by occupation - Retired person at present residing at village - Baidyadanga, Post Office - Rasulpur, Police Station - Memari, District - Purba Bardhaman do hereby declare that I am the respondent No. 7 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 17 of the instant counter affidavit are true to my knowledge and those contained in paragraph No. 18 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 3rd January, 2022.

Parbati Kumar Ghosh

Prepared in my office

Samuel Paul

Advocate



ভারত সরকার

Government of India



পার্বতী কুমার ঘোষ
Parbati Kumar Ghosh
পিতা: নিউ গোপাল ঘোষ
Father: NIUGA GOPAL GHOSH

জন্ম তারিখ / DOB: 27/02/1947
পুরুষ / Male



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আধার - সাধারণ মানুষের অধিকার



আধার
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রাসুলপুর, বর্ধমান, পশ্চিম বঙ্গ

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Parbati Kumar Ghosh

P. Sankar Kumar

VAKALATNAMA
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Vakalatnama on behalf of Parbati Ghosh, Respondent No. 7 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 vakalatnama, 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 WITNESS WHEREOF I/we sign and execute this vakalatnama, on this the 3rd day of January, 2022.

NAME OF THE ADVOCATE

SANKAR PAUL

Advocate

Calcutta High Court Bar Association Room No. 18,
Kolkata 700001,

Mobile: 08697395538 / 09002891913,

E-mail: paulsankar16@gmail.com

Received the Vakalatnama
from the executant directly
and accepted the same by

Somenland
Advocate

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