

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

O.A No. 61 of 2024/EZ

IN THE MATTER OF:

Hitesh Sharma

..... Applicant

-Versus-

The State of West Bengal &Ors.

..... Respondents



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Abhisek Baran Das

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C/O Mr. ABHISEK BARAN DAS
ADVOCATE
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Mob.: 7003321437;

21 MAR 2025



Before the National Green Tribunal
 Eastern Zonal Bench, Kolkata,
 West Bengal Finance Centre, 3rd Floor, New Town
 Original Application No. 61 of 2024/EZ



In the matter of:-

Hitesh Sharma

.... Applicant

-Versus-

Sabyasachi Mullick Chowdhury & Ors.

.... Respondents

**REJOINDER ON BEHALF OF THE APPLICANT AGAINST THE COUNTER
 AFFIDAVIT FILED BY THE RESPONDENT NOS. 4 AND 5.**

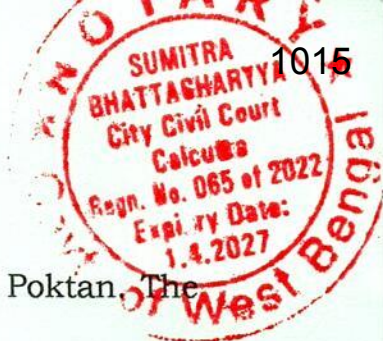
I, Pawan Sharma, son of Sri Radheshyam Sharma, aged about 51 years, by faith - Hindu, by occupation - Business, residing at CZ - 4, Canal South Road, Post Office - Dhapa, Police Station - Pragati Maidan, Kolkata - 700 105, do hereby solemnly affirm and say as follows:-

1. I am the constituted attorney of the applicant. I have made myself fully acquainted with the facts and circumstances of the present case. I am competent enough and duly authorized by the applicant to make and affirm this affidavit on his behalf. I have read a copy of the counter affidavit affirmed on August 12, 2024 and served upon my Learned Advocate purportedly affirmed by TriptiSha being the respondent No. 5 in the present proceeding (hereinafter referred to as the "said affidavit"). I have understood the meaning, contents and purport thereof.
2. The said affidavit is a self-declaration of a demonstrable incompetent measures that have been taken by the authorities in carrying out the



orders of this Hon'ble Tribunal only as an eye wash and to shirk of their responsibilities imposed by the order dated January 3, 2022

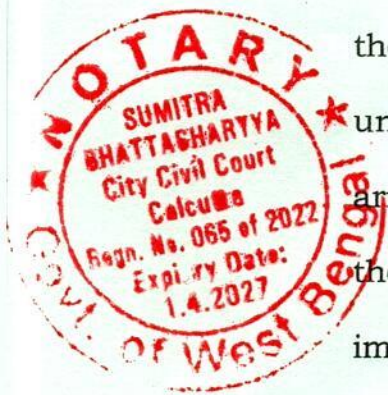
3. Save and except what are matters of record allegations to the contrary contained in the various paragraphs of the said affidavit are denied and disputed as if in seriatim and specifically traversed.
4. With reference to the paragraph nos. 1 to 4 of the said affidavit, I deny and dispute the contentions raised therein save and except matters which are on record. I say that the order dated January 3, 2022 was passed without hearing the applicant. As a consequence, the site visitation carried out by the authorities on February 17, 2022 was done in the absence of the applicant. The respondent No. 16 being the Secretary of the Metropolitan Cooperative Society have apparently washed his hands out of the present dispute. There is no semblance of a responsible action which can be demonstrated from the chronology of events that have taken place since inception of the present proceedings. The said Secretary at no point of time has felt it necessary to intimate the applicant regarding the ongoing process of the present litigation which directly affects the applicant. The society having sold the said property to the applicant is now trying to wash off its hands without even making any effort to secure or protect such subsequent transferees including the applicant. The applicant reserves his right to initiate appropriate legal proceedings against the Society at an appropriate stage for causing such unnecessary harassment to the applicant.
5. With reference to paragraphs 5 and 6 of the said affidavit, I deny and dispute the contentions raised therein save and except matters which are on record. I say that plot No. CZ 15A is comprised of 5 Dag Nos. namely RS Dag No. 87 situated at Mouza Dhapa, RS Dag



Nos. 248, 186, 187 and 267 situated at Mouza Nimok Poktan. The subject land is about 6 cottahs 3 chittacks and 25 square feet. The final report as prepared under the signature of 8 member committee taking assistance from the Kolkata Municipal Corporation nowhere takes into consideration that CZ 15A is not situated only on Dag No. 267 of Mouza Nimok Poktan. It is a specific statement in the said final report that part of Dag No. 267 of Mouza Nimok Poktan consist of water-body. Thus, the said 8 member committee while conducting the survey nowhere came to a finding as to which part of CZ 15A falls within RS Dag No. 267 and even if the some part of CZ 15A falls under the said RS Dag No. 267, whether such portion falls within that part of RS Dag No. 267 which consist of the water-body. From the careful examination of the self-same final report it is evident that the entire report was prepared on the basis of google imagery. Such an act is in direct contravention to the jurisprudence of survey. No survey can be said to have been finally concluded without consultation of a Mouzamap. For conducting a survey and demarcation of land, consultation and comparison of land marks and fixities are sine quanon and without the same, the entire exercise of survey is futile and fraud. Based upon such incompetent and futile mode adopted by the 8 member committee in consultation with the Kolkata Municipal Corporation, the right to property of the applicant cannot be infringed. The finding in the report that CZ 15A has been created after 2013 by the filling up water-body has i.e. Ukil Bheri is required to be demolished is absolutely baseless and irresponsible act of the respondent authorities having no substantive evidence to back the same. There is no finding in the report as regards the location of RS Dag No. 87 situated at Mouza Dhapa, RS Dag Nos. 248, 186 and 187 at Mouza Nimok Poktan which admittedly

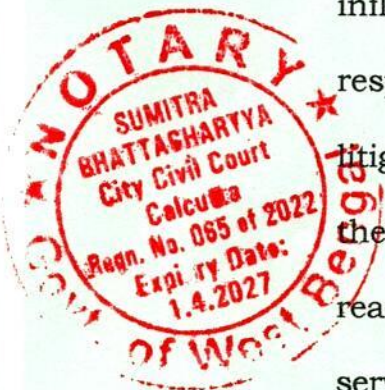
do not fall within the peripheries of waterbody but those plots are included in the property of the applicant i.e. CZ 15A. Thus, without demarcating and finalizing as to which portion of CZ 15A is situated within that portion of RS Dag No. 267 of Mouza Nimok Poktan which would fall under the waterbody, no measures affecting CZ15A can be initiated far less demolishing structures standing thereon. Environmental restoration cannot be enforced at the expense of illegalities being perpetrated on an innocent individual without first testing the veracity of the allegations made against such delinquency. It is an admitted fact that the subject land does not fall within the East Kolkata Wet Lands. In order to trigger the power of the Municipal Commissioner of the Kolkata Municipal Corporation under the West Bengal Inland Fisheries Act, 1984, it is significant to arrive at a conclusive finding as regards the specific demarcation of the lands complained of in the final report. It is also equally important to finally demarcate CZ 15A on the anvil of the existence of other 4 Dag numbers which in total comprises of the subject land of CZ 15A.

6. With reference to paragraphs 7, 8 and 9 of the said affidavit, I deny and dispute the contentions raised therein save and except matters which are on record. The "passing of buck" game as sought to be played by the respondent authorities through the said affidavit deserves to be deprecated and condemned inasmuch as in the statements made in the affidavit declaring that the subject land do not fall within the purview of the East Kolkata Wet Land, do not find a space in the final report. Thus, the answering respondent ought to have mentioned such fact on January 3, 2022 when such an order was being passed by this Hon'ble Tribunal regarding formation of the



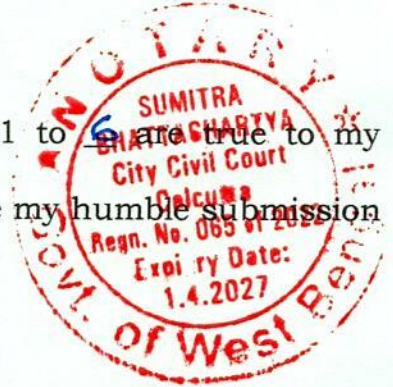
8 member committee. If the subject land is not under the purview of the answering respondent, there was no occasion for the answering respondent to become a part of that committee and make an attempt to conduct a futile survey so as to confuse the entire adjudication process. If the subject land is not under the purview of the answering respondent, the answering respondent is not competent to make any comment on the subject land in any manner whatsoever far less the duties of the Kolkata Municipal Corporation. The contradictory stands taken by the answering respondent inasmuch as in stating that the subject land does not fall within the purview of East Kolkata Wet Land and then issuing directions upon the Kolkata Municipal Corporation is a clear manifestation of a demonstrable mala fide involved in the present circumstances, triggered and influence at the instance of the respondent no. 1. The answering respondent seems to be more concerned about the pending litigations and the orders passed therein rather than carrying out their duty of assisting this Hon'ble Tribunal and the Hon'ble Court to reach to a reasonable and correct conclusion so that justice is subserved and the true and correct picture is canvassed before the Hon'ble Tribunal and the Hon'ble Court. On that score also, the answering respondent has miserably failed to perform their duty being a part of State machinery.

7. I say that the said affidavit is a manifestation of a depressed mind which demonstrates a sorry state of affair at the instance of the deponent of the counter affidavit who is trying tooth and nail to somehow evade the ongoing litigations and the orders passed thereunder. The purpose for which the said authority was included in the 8 member committee has thus failed and the true and correct



picture has not come up before this Hon'ble Tribunal through the said final report dated October 20, 2022 as prepared under the directions of order dated January 3, 2022. Thus, no cognizance of the said report may be taken.

8. That the statements made in paragraphs 1 to 6 are true to my knowledge and best of my belief and rest are my humble submission before this Hon'ble Tribunal.



Dep.

Sam Shu
Deponent

Identified by me

Abhinav Saran Das

Advocate

Solemnly affirmed before me
on this day of March, 2025

BEFORE ME

Solemnly Affirmed and
Declared before me
U/S 139 CPC (C)
NOTARY *Notary*

Sumitra Bhattacharya

Sumitra Bhattacharya
Notary, Govt. of W.B.
Regd. No. 065 of 2022
City Civil Court, Calcutta

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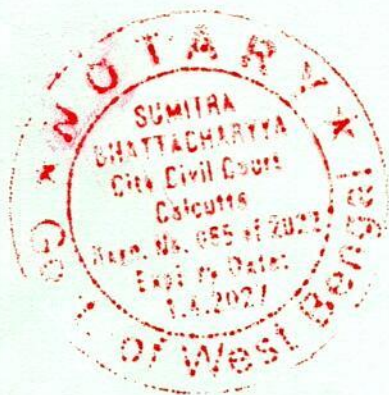
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