

06.04.2026
Item No.268
Ct. No. 1
RP

WPA 27191 OF 2015

**Samar Singha Jana & Anr.
VS
The State of West Bengal & Ors.**

Mr. Sukumar Ghosh
Mr. Sandip Ghosh
Ms. Moumita Ghosh
Ms. Jayashree Dari

....For the Petitioners

Mr. Shyama Prasad Purkait

....For Respondent No.4

Mr. Jahar Lal De, AGP
Mr. Nilotpall Chatterjee

...For State

Mr. Pradip Kumar Mondal
Mr. Arka Mondal

...For Respondent No.9

Dictated by PARTHA SARATHI SEN, J.:

1. Parties are represented through their respective learned counsels.
2. At the time of hearing, learned counsel appearing for the petitioners and Mr. Dey, learned AGP for the State draws our attention to page nos.40-43 of the instant writ petition, being a copy of the order dated 8th August, 2013 passed in WP 22790(W) of 2008 (Samar Singha Jana vs. State of West Bengal & Ors.). It is submitted on behalf of the writ

petitioners as well as the respondent State that over the same plot of land, being a water body, it was alleged that in the earlier round of litigation that illegal filling up of the water body was going on. It is further submitted that from the said order dated 8th August, 2013 it would reveal that the said writ petition was disposed of by directing the official respondents to ensure that garbage is lifted from the pond and the pond is maintained and restored in the same shape which was ordered within a period of three months from today and to file a compliance report within three months.

3. It is submitted on behalf of the writ petitioners that from the report of the municipality as submitted before this Court in connection with the instant writ petition nothing has been disclosed showing compliance of the earlier order dated 8th August, 2013.

4. Learned advocate appearing on behalf of the private respondent, however, submits that the instant writ petitioners are not entitled to any relief whatsoever in view of the fact that over the selfsame plot of land the writ petitioners earlier approached this Court and prays for favourable order.

5. On careful consideration of the entire materials placed before this Court and after hearing the learned advocates for the contending parties we deem it proper to look to the earlier order dated 8th August, 2013 as passed in WP 22790(W) of 2008, the relevant portions of which are quoted hereinbelow in verbatim.

“After inspection and survey of plot no.RS 78, LR-307, KH No.RS 98, LR 992, 449, 716, JL NO.91, Mouza-Roynagar, Ward No.13, it could be learnt that the land in question is owned by Prasenjit Halder, Maya Halder, Abhijit Halder, Surajit Halder is true.

It is reported that,

- i) A tank measuring about 6.00 decimals have been recorded in L.R. record in favour of Prasenjit Halder & Others.
- ii) At present the said tank has been filled to a small Doba measuring at South Side- 42'-0", North Side- 30'-00", East Side 35'-0", West Side 35', covering area 2.89 decimals and there is no drainage outlet. The said tank is in waterlogged and filled by excess water, soil water, urine fell from the surrounding buildings. The tank is full of hyacinths and some portions are filled up with garbage. Since a long, the dumping of garbage is totally stopped.

The tank is not in a condition for human use."

A perusal of the aforesaid report clearly shows that initially the tank measured about 6.00 decimals which has been duly recorded in the land revenue records. However, the dimensions of the pond have now come to 2.89 decimals. The excuse given

by the owner is that the garbage dumping has been continuing in the pond for a very long time. Therefore, the pond has become water-logged. There is no drainage outlet to the pond also. The said report be kept with the record.

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On 17.04.2009 "Present Status Report" has been filed pursuant to order passed by this court. It has been mentioned in the report that alleged persons are slowly dumping garbage with a view to convert the pond into a plain land. Police case was started on the complaint of Avhijit Kumar Saha, Assistant Director of fisheries, South 24 Parganas, Alipore, being Diamond Harbour, P.S. Case No.149/09 dated 02.04.09 under Section 17A of West Bengal Inland Fisheries Act, 1993 against Prasenjit Halder and others. Prasenjit Halder is main accused in the aforesaid case and was arrested and produced in the court on 07.04.2009. Rest of the

accused persons surrendered before ACJM, Diamond Harbour on 09.04.09. Presently, the accused persons are on bail.

Considering the status report it is clear that there was dumping of garbage in the pond in question in order to convert the pond into plain land.

In the circumstances, we direct the official respondents to ensure that garbage is lifted from the pond and the pond is maintained and restored in the same shape which was ordered within a period of three months from today.

Let compliance report of the direction issued be filed before this court after three months.

With the aforesaid direction, the writ petition is disposed of.”

6. As rightly pointed out by the learned advocate for the petitioners from the report of the respondent municipality we find no compliance report with regard to compliance of the earlier order dated 8th August, 2013. In view of such, we direct the Executive Officer of

the Diamond Harbour Municipality to submit a compliance report in terms of the earlier order dated 8th August, 2013 as passed in WP 22790 (W) of 2008 positively within 15 working days from today.

7. Since the learned advocate for the respondent municipality is not present the learned advocate for the writ petitioners is hereby requested to communicate a server copy of this order together with a copy of the earlier order dated 8th August, 2013 passed in WP 22790(W) of 2008 and to file proof of service on the adjourned date.
8. Let the matter be listed on 6th May, 2026 for further consideration.

(SUJOY PAUL, CJ.)

(PARTHA SARATHI SEN, J.)