

15.07.2013.  
d.p.

**W. P. No. 23860 (W) of 2012**

**Splendour Commercial Pvt.  
Ltd. & Anr.**

**Versus**

**East Kolkata Wetlands Management  
Authority & Ors.**

**Mr. Debasis Mishra,  
Mr. Debaki Nanda Maiti,  
Mr. Mahim Sasmal.**

**...For the Petitioners.**

**Mr. Ram Mohan Pal.**

**...For the State.**

**Mr. Amit Prakash Lahiri.**

**...For the Respondent  
Nos. 1, 2 & 11.**

By registered Deed of Conveyance dated 21<sup>st</sup> August, 2009, the petitioners herein purchased a piece or parcel of shali land measuring about 6 Bighas 16 Cottachs 2 Chittacks and 42 sq.ft. lying at L.R. Dag Nos. 27, 28 and 30, Mouza Jagatipota within J.L. No. 3, P.S.-Sonarpur, District South 24-Parganas from its vendor viz. Adinath Investment & Consultants Private Limited. After purchasing the said land, the petitioners submitted an application before the East Kolkata Wetlands Management Authority praying for change of character and mode of use of the land from agriculture to non-agriculture. The purpose for which such conversion was prayed for, has also been indicated in serial No. 2(h) in the said form wherein it was mentioned that the petitioners intend to utilize the said land for construction of a School building

thereon. Such application was submitted before the concerned authority on 24<sup>th</sup> January, 2011.

It is alleged by the petitioners that despite receipt of such an application from the petitioners, the concerned authority has neither considered the petitioners' said application nor intimated the petitioners about the fate of such application till date though the time limit of 60 days within which the concerned authority was required to consider the petitioners' said application, has long expired.

Under such circumstances, the petitioners have come before this court with this writ petition seeking issuance of direction upon the concerned authority for early consideration of the petitioners' said application.

Mr. Lahiri, learned advocate appearing for the respondent Nos. 1, 2 and 11 submits that his client being the authority under the said Act, is unable to consider the petitioners' said application for conversion in view of the notification issued by the Ministry of Environment and Forests, New Delhi on 4<sup>th</sup> December, 2010 imposing restriction on various activities within wetlands. He refers to the provision contained in Rule 4(vi) of the Wetlands (Conservation & Management) Rules, 2010 which is as follows:--

“any construction of a permanent nature except for boat jetties within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these rules.”

By referring to the aforesaid provision, Mr. Lahiri, learned advocate submits that since the petitioners have applied for conversion of the nature of the said land for raising construction of a school building thereon and further since the petitioners' land admittedly is situated within the East Kolkata Wetlands area, the

authority concerned did not consider the petitioners' said application.

The learned advocate appearing for the State-respondents also adopted the same argument as advanced by Mr. Lahari in the instant case.

Fact remains that East Kolkata Wetlands is also included within the list of Wetlands in India identified as Ramsar site under Ramsar Convention on wetlands. Undisputedly, the petitioners' land is situated within the East Kolkata Wetlands. The land of the petitioners are described as urban/rural settlement area in the Table No.9 under Schedule 1, framed as per Section 2(c) of the Wetlands (Conservation & Management) Rules, 2006.

Let me now consider as to how far the provision contained in the Rules stands in the way of considering the petitioners' application on merit by the concerned authority.

Since construction of a permanent nature within the wetlands area is prohibited under Rule 4(vi) of the said Rules, the petitioners' prayer for allowing its land to be converted from agriculture to non-agriculture land, in my view, cannot be allowed either by the Wetlands Authority or by the Land Reforms Department of the State of West Bengal. As such, consideration of the petitioners' application and communication of the fate thereof to the petitioners is nothing but an idle formality.

This court thus, refuses to pass any direction upon the concerned authority for consideration of the petitioners' said application which in my view, had its normal death in view of the restriction imposed by the Central Rules as indicated above.

The writ petition thus, stands rejected.

Urgent Photostat certified copy of this order, if applied for, be supplied to the learned advocate for the petitioner immediately.

( Jyotirmay Bhattacharya, J )