

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA**

OA 119/2015/EZ

**HOWRAH MUNICIPAL CORPORATION & ANR
Vs
UNION OF INDIA & ORS.**

CORAM: Hon'ble Mr. Justice Pratap Kumar Ray, Judicial Member
Hon'ble Prof. (Dr.) P. C. Mishra, Expert Member

PRESENT: Applicants : Ms. Amrita Pandey, Advocate
Respondents 2 to 5 : Mr. Malay Kumar Das, Advocate
Mr. Biswajit Samanta, Advocate
Respondent Nos. 6 & 7 : Mr. Bikas Kargupta, Advocate
Respondent No. 8 : Mr. Dipanjan Ghosh, Advocate

Date & Remarks	Orders of the Tribunal
<p>Item No.4 17th February, 2016.</p>	<p>Ms. Amrita Pandey, Id. adv. appearing for the applicants, the Howrah Municipal Corporation, prays for time to file reply to the opposition filed by the railway respondents, a copy of which has been received by her only this day.</p> <p>Mr. Bikas Kargupta, Id. adv. for the State respondents submits that in terms of our earlier direction, DL & LRO, Howrah, has filed an affidavit, which is on record. The Railway respondents have also filed their affidavit.</p> <p>On perusal of the affidavit filed by the DL & LRO, it appears that the alleged water body claimed as Santragachi Jheel by the applicants, Howrah Municipal Corporation, has been identified and it is situated in RS Plot No. 299 of Mouza Jagachha, JL No. 06, PS Jagachha and the said plot having total area of 17.10 acre is classified as Nayanjuli in RS</p>

Khatian No. 595 as per land records. In this affidavit a map has been annexed showing the topography of the water body. In the affidavit it is averred that some portion of the Nayanjuli has been filled up by the railway, which has been marked by green ink.

Ld. advocate for the railway respondents has also filed an affidavit annexing particulars of the water body. It appears that this Nayanjuli located near the Santragachi railway station having the same area as mentioned in the affidavit of DL & LRO, Howrah and it is owned by the Govt. of India and possessory right is vested with Southern Railway. By referring to Sec. 11 of the Railways Act 1889, it is submitted by the Id. adv. of Rly authority that as per this provision, the railway has every right and jurisdiction to fill up any pond/water body etc, as mentioned therein, for the purpose of construction of railway/ building etc.

However, we will consider this issue on the next date on completion of pleading after filing of reply by the applicant Corporation.

On prayer of the Id. adv. for the applicants, leave is granted to amend the pleading and to file amendment petition within two weeks.

The railway respondents are also granted leave to file supplementary affidavit, if necessary, by two weeks thereafter.

The DL & LRO, Howrah is directed to submit an affidavit on the issue whether there is any water body recorded under the name and style as Santragachi Jheel in the above-noted location and whether this Nayanjuli which is under the possession of Southern Railway, is popularly known as Santragachi Jheel in the common people's

parlance. Such affidavit be filed by four weeks.

Construction, if any, made on the disputed location will abide by the result of this OA.

Matter is fixed on 2.3.2016.

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Justice Pratap Kumar Ray, JM

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Prof. (Dr.) P. C. Mishra, EM

