

IN THE HIGH COURT OF ORISSA AT CUTTACK

O.J.C. No.5750 of 2002

Jagannath Mohapatra

....

Petitioner(s)

Mr.B.P.Das, Advocate

-versus-

State of Odisha & Ors.

....

Opposite Party(s)

Mr.S.P.Panda, AGA

CORAM:

JUSTICE BISWANATH RATH

ORDER

25.03.2022

Order No.

6.

1. Heard learned counsel appearing for the parties. This is a decade old litigation.
2. Undisputedly an encroachment proceeding is already finalized after the remand order being passed by this Court. In the meantime, there has been undertaking of appeal proceeding under Section 92 of the Orissa Mutation Manual . On his own submission of learned counsel for the petitioner that there is no challenge to the finality of the O.P.L.E. proceeding against order dated 30.11.1998 appears to have been quoted at page-9 onwards of the brief. This writ petition involves initiation of a further Encroachment Proceeding No.247 of 2002 and challenge involved herein.
3. Considering the submission of Mr.Das, learned counsel for the petitioner and the objection raised by Mr.Panda, learned Additional Government Advocate and for the admitted position that the order in the first round of O.P.L.E. Proceeding not being challenged and since the first round of litigation observes petitioner is not an encroacher even assuming that petitioner is a purchaser of the suit land, on initiation of the second round of litigation vide O.P.L.E. Case No.247 of 2002, nothing prevented the petitioner to appear before the O.P.L.E. Authority

in O.P.L.E. Case No.247 of 2002 and raise his claim made herein for consideration of the competent authority by exercising power under the O.P.L.E. Act. In the event there is some development on mutation proceeding, nothing prevents the petitioner also to bring such development before the O.P.L.E. authority in his objection to the O.P.L.E. case involved. In the process, this Court finds the writ petition is absolutely premature. However, in disposal of the writ petition, this Court permits the petitioner to appear before the competent authority involving O.P.L.E. Case No.247 of 2002 along with objection raising therein the ground taken herein at least within a period of one month and not later than 25.04.2022. In the event of filing of such objection, the O.P.L.E. proceeding involving O.P.L.E. Case No.247 of 2002 shall be considered on its own merit however taking into account the objection of the petitioner. Further, as appears, in the meantime the Bar Association, Nabarangpur since intervenors in the dispute particularly in the first round of O.P.L.E. Proceeding shall also be involved to avoid further complicity. Bar Association involved may be served notice before disposal of the OPLE proceeding involved.

4. This Court since finds the petitioner is in enjoyment of the interim order dated 6.6.2002 passed by this Court, the same shall be continued for four months, within which period the O.P.L.E. Case No.247 of 2002 shall be concluded.

5. The writ petition thus disposed of.

(Biswanath Rath)
Judge