

IN THE HIGH COURT OF ORISSA AT CUTTACK
CONTC No. 2824 of 2012

Smt. Prafulla Kumari Das

Petitioner

None

-versus-

Upendra Behera, Principal
Secretary to Home Department,
Odisha Secretariat, Bhubaneswar
& Another

Opposite Parties

Mr. L. Samantaray, AGA

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)
13.09.2022

Order No.

- 05.** 1. This matter is taken up by virtual/physical mode.
2. The contempt petition has been filed alleging non-compliance of the direction contained in the judgment dated 25th June, 2012 passed by this Court in W.P. (C) No. 14457 of 2011.
3. The writ petition was filed on the fact that the husband of the Petitioner, a member of Capital Co-operative Housing Society Limited, applied for allotment for a piece of land in the year 1960. The Board of Directors of the Society decided to provisionally allot Plot No.696 measuring approximately 1/10th of an acre of the size 60' x 75' in Saheed Nagar, Bhubaneswar in favour of the husband of the Petitioner vide allotment letter dated 24th August, 1965. On payment of premium fixed for the land, request was made to execute the lease deed to get the allotted plot registered. Since no step was taken for registration, the Petitioner approached the Director of Estates personally and ventilated her grievance. In spite

of direction nothing fruitful could be yielded. Since, the General Administration Department did not take any initiative for registration of lease deed for the allotted plot, the Petitioner (since his husband is dead) had filed the writ petition with a prayer to direct the Opposite Parties to complete the process of allotment pursuant to allotment order dated 24th August, 1965 issued by the Society and register the document of transfer of land in her name. This Court after elaborately discussing the entitlement of the Petitioner observed and directed as follows:-

“8. Be that as it may, petitioner’s husband who had served the State as a teacher had deposited the premium for the land allotted in his favour in the Treasury in the year 1966 and the certified copy of the treasury challan deposit of such premium had been submitted to the authorities and despite several adjournments granted, the authorities could not find out any ingenuity in the treasury challan deposit. The plea taken by the Opposite Parties that the cost of land has been increased sky-high in the meantime will not in any manner help the authorities to reject the claim of the Petitioner, because the rise in the cost of the land is not material as it is admitted by Opposite Party No.3-Society so also not disputed by the Government that the premium, which was prevailed at the time of allotment of the land has been deposited by the Petitioner’s husband. Hence, the representation, which has been rejected, should have been sympathetically considered by the authorities as it was difficult on the part of a teacher or his family to get a land at Bhubaneswar, which is now under the total control and hold of the Government officials as well as builders and rich persons and there is no place for a middle class family to get land in the vicinity of Bhubaneswar. If we would have gone deep into the matter and if the records of allotment of lands by the State Government in Bhubaneswar in the last 20 years would be re-opened, the same would lead to opening of a Pandora box and as stated by learned counsel for the Petitioner, most of the allottees would be of higher income group of people. We are not inclined to do so, but at the same time, we are of the considered opinion that injustice should not be done to the Petitioner, who is a 80 year old

widow, and her husband who with a great hope to settle at Bhubaneswar applied for allotment of a land through Opposite Party No.3-Society and even if a land was allotted in his favour could not register the same in his name due to his transferable service. The delay in approaching this Court cannot be a ground to reject the case of the Petitioner when the land is still lying vacant and is stated to have been in possession of the Petitioner. So far as the encroachment is concerned, that is between the Petitioner and the encroacher and the State Government has nothing to do with that.

9. For the foregoing reasons, we allow the writ application and direct the Opposite Parties to execute the lease deed in favour of the Petitioner after completing the allotment process. The Special Secretary, G.A. Department is directed to register the land in question in the name of the Petitioner. The entire exercise shall be completed within a period of three months from today.”

4. This Court vide order dated 22nd November, 2021 passed the following order:-

“2. List on 29th March, 2022. Compliance report be filed before the next date failing which the Officers concerned shall be liable to be present in Court.”

5. A compliance affidavit dated 25th March, 2022 has been filed by Sri Surendra Kumar, Principal Secretary to Government, GA & PG Department, Government of Odisha. It is explained in the said compliance affidavit by the contemnor as follows:-

“7. That after disposal of the writ petition, out of which the present contempt proceeding has arisen, by the Hon’ble High Court on 25.06.2012, SLP (C) No. 9798 of 2013 was filed by the State of Odisha before the Hon’ble Supreme Court of India challenging the Order dated 25.06.2012 passed by the Hon’ble Court in W.P. (C) No. 2824 of 2012.

8 That the Hon’ble Supreme Court of India have dismissed the said Special Leave Petition filed by the State vide Order dated 3rd March, 2017 which is reproduced as under:-

“This petition was called on for hearing today.

Upon hearing the counsel the Court made the following.

Order

We find no reason to entertain the Special Leave Petition which is, accordingly dismissed.

Pending applications, if any, stand disposed of.”

9. That in this connection, it is not out of place to mention here that one Civil Suit bearing CS No. 1292 of 2009 has been filed by one Sibaram Sahoo against GA Department and another before the Court of the learned Civil Judge (Sr. Division), Bhubaneswar praying for declaration of title over the land allotted in favour of the deceased husband of the Petitioner through adverse possession. Written Statement has already been filed before the learned Court by GA & PG Department. The Interim Application filed by the said plaintiff before the learned Court has been dismissed for default of the plaintiff on 12th December, 2018. As ascertained from the office of the Government Pleader, the Civil Suit is pending for adjudication before the learned Court.

10. That in compliance to the Order dated.25.06.2012 passed by the Hon'ble Court in W.P.(C) No. 14457 of 2011, approval of the Government has been obtained for execution of lease deed in respect of Drg. Plot No.696 as per Drg. No. C-3204 area measuring 60'x75' relating to Mz-Saheed Nagar allotted in favour of late Prasanna Kumar Das by the Capital Co-operative Building Society Pvt. Ltd., Bapuji Nagar. The Petitioner has been informed vide GA & PG Department letter No.8925 dated 25h March, 2022 to submit (a) Death certificate of Prasanna Kumar Das, (b) Legal heir certificate of Prasanna Kumar Das, (c) Identify proof of the legal heirs and (d) Specimen signatures of the legal heirs for taking further course of action in the matter. That immediate necessary step for execution of the lease deed will be taken after receipt of the documents from the Petitioner.”

6. An identical compliance affidavit dated 28th March, 2022 has also been filed by Sri Sanjeev Chopra, Additional Chief-Secretary to Government of Home Department.

7. In view of the compliance affidavits filed by the Additional Chief Secretary and Principal Secretary, this Court finds no willful or deliberate negligence part on the part of contemnors in complying with the directions contained in the Judgment dated 25th June, 2012 passed in W.P.(C) No. 14457 of 2011 and accordingly, there is no warrant in proceeding with the contempt any further. Therefore, the contempt petition is disposed of.

Issue urgent certified copy as per rules.

(Jaswant Singh)

Judge

(M.S. Raman)

Judge