

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.5567 of 2012

Diptimayee Sahoo

....

Petitioner

Mr. T. K. Mishra, Advocate

-versus-

The Collector, Dhenkanal and Others

.... ***Opposite Parties***

Mr. I. Mahanty, ASC

CORAM:

THE CHIEF JUSTICE

JUSTICE R. K. PATTANAİK

Order No.

ORDER
20.07.2022

06. 1. Claiming that the Opposite Parties have constructed a road over her Plot Nos.5249 and 5250 in Khata No.501 in Mouza-Nihal Prasad, District Dhenkanal, the Petitioner has filed this petition with a singular prayer as to why the “construction of the road over Plot Nos.5250 and 5249 has not been stopped”.
2. In response to the notice issued in the present petition, a counter affidavit has been filed by the Opposite Party No.1 stating that the road in Plot No.5250 is an ‘existing road’ and the same has been upgraded subsequently by the R& D Department as per the demand of the local people as the road connects Dhenkanal to Jajpur District. It has been pointed out that the RoR in respect of the said Plot shows the Kisam to be ‘Road’. The categorical statement is made that the road “does not relate to Plot No.5249”.
3. Learned counsel for the Petitioner states that there are ‘admissions’ in the counter affidavit that the road, which is running

over her land has been ‘acquired’ by the Government and then converted into a public road. He refers in particular to paras 8 and 10 of the counter affidavit. Paras 8 and 10 read as under:

“8. That in reply to the averments made in para-9 of the writ petition it is humbly submitted that out of Khata No.501(10 plots) Plot No.5250 has been recorded as road and is being used as a road by the public since long as declared as Govt. land. As such the paying of rent for that portion is her own decision and not related to this division. Moreover paying rent does not create any right whatsoever.

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xxx

xxx

10. That in reply to the averments made in Para 11 of the writ petition it is humbly submitted that the question of initiation of acquisition of land proceedings does not arise, as there is already road on the land in question. In the meanwhile the road project was sanctioned by NRRDA (Govt. of India) and after approved by Chief Engineer, Rural Works III, Odisha, Bhubaneswar tender was floated and the lowest bidder M/s. S. K. Agrwalla was awarded the above cited work vide Agrt. No.01/NCB/ADB-II of 2011-12”.

4. The Court is unable to agree that there are any ‘admissions’ in the above paragraphs about the Petitioner’s private road being acquired, as contended by him, and being converted into a public road. On the contrary, the contention appears to be that there has always been a public road existing on the land in question.

5. Although the Petitioner states that she was aware of the existence of the road in 1982 itself, she is unable to explain why she woke up only in 2012 to claim compensation for the road. In fact the prayer in the present petition is not even for that. It is only to stop the construction of the road.

6. Considering that the road has been in existence on Plot No.5250 for long, the Court is unable to grant the relief as prayed for. The petition is accordingly dismissed.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

M. Panda

