

IN THE HIGH COURT OF ORISSA AT CUTTACK**W.P. (C). No.19147 of 2008**

<i>Sunadhar Pujhari & Others</i>		<i>Petitioners</i>
		Miss A.K.Dei, Advocate
	-versus-	
<i>State of Orissa & Others</i>		<i>Opp. Parties</i>
		Mr. S.N.Das, ASC

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K.PATTANAIK

Order No.

ORDER
09.02.2022

31.

1. The present petition is filed for a direction to the Opposite Parties to acquire land indicated in Schedule-B by invoking the provisions of the Land Acquisition Act, 1894 and to pay the compensation amount to the Petitioners.

2. On 30th April, 2015 this Court directed the Additional Government Advocate (AGA) to obtain instructions whether the lands under Schedule-B were in fact submerged as a result of the construction of a Dam of the Upper Indravati Irrigation Project. After a counter affidavit was filed by the Opposite Parties the Tahasildar, Jaipatna was asked to conduct an enquiry and submit a report within four weeks.

3. Pursuant thereto, an additional affidavit filed by the Tahasildar, Thuamul, Kalahandi on 19th December, 2019. In Para-4 of the said affidavit is stated as under:

“ That, however, the petitioner prays to acquire Plot No. 283 measuring an area of Ac.1.00 as he is unable to cultivate the said land due to reservoir water surrounded to the said plot during the rainy season.

In this context, it is further submitted that during enquiry it reveals that Plot No.283 bearing Khata No.06 of Mouza- Mahulpatna to the extent of area of Ac.1.00 is a high land and it is not submerged in the Indravati reservoir. During the rainy season the above said Plot No.283 measuring an area of Ac. 1.00 is surrounded by the reservoir water from the three sides i.e. East, West and South. However, the said plot is approachable from North by road connecting village Badasukal to Pandaphuspada. The plot wise detailed status of the lands at Scheduled “B” of the writ petition and memorandum of local enquiry conducted by the deponent and Revenue Inspector, Jubarajpur along with Map indicating that the portion of the land which is fit for use as tick mark.”

4. With there being a factual dispute as pointed out in the affidavit regarding Plot No. 283 being submerged by the Irrigation Project it is not possible for this Court to grant the relief as prayed for by the Petitioners.

5. The writ petition is accordingly dismissed.

(Dr. S. Muralidhar)
Chief Justice

Tudu/Kabita

(R.K.Pattanaik)
Judge