

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 3643 of 2012

Basudev Nayak @ Bauria Nayak

....

Petitioner

Mr. B.P.Tripathy, Advocate

-Versus-

State of Odisha & Another

....

Opposite Parties

Mr. S.N.Das, ASC

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

22.07.2022

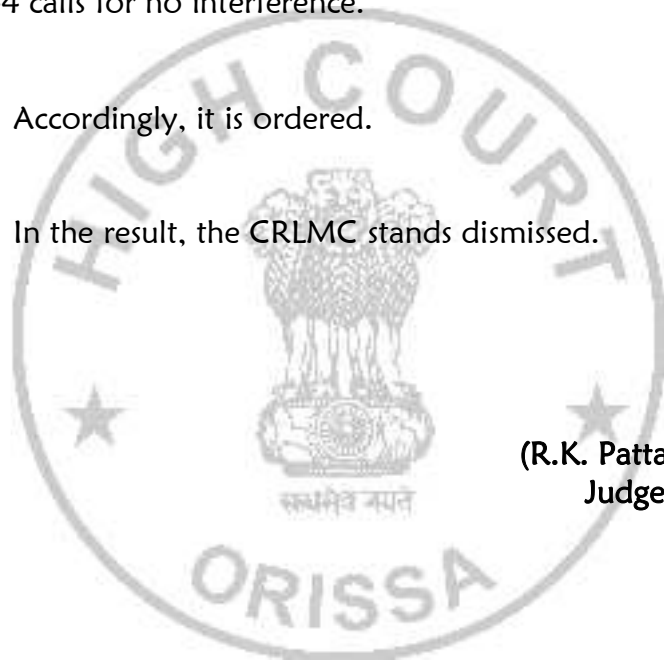
Order No.

3.
 1. Heard learned counsel for the petitioner and learned ASC for the State.
 2. Present application under Section 482 of Cr.P.C. is filed by the petitioner assailing impugned order dated 28th September, 2012 passed in C.M.C. No.109 of 2012 (Annexure-3) whereby the learned court below rejected the request for release of seized bricks while passing order under Section 457 Cr.P.C.
 3. The F.I.R. was lodged by the informant and it was at the instance of Shri Jagannath Temple Administration, Puri. in fact, the concerned P.S. was informed by the Administrator of the temple that some persons have illegally constructed brick kilns by excavating earth from the schedule land recorded in the name of Shri Jagannath Mahaprabhu Bije, Puri with request to seize the bricks as there has been violation of provision of Orissa Minor Mineral Concessions Rules, 2004. In that connection, the alleged bricks have been seized by the local police

and thereafter, the petitioner approached the learned court below by filing an application Section 457 Cr.P.C. for taking its custody which was refused by the impugned order under Annexure-4. At this distant point of time as almost a decade passed by and considering the fact that the brick kiln was illegally raised over the land of the temple which was subsequently seized along with the bricks and regard being had to the nature of allegations, the Court is not inclined to direct release of the bricks in favour of the petitioner, whereupon, the decision shall be taken at the end of the trial. In other words, the impugned order under Annexure-4 calls for no interference.

4. Accordingly, it is ordered.

5. In the result, the CRLMC stands dismissed.



(R.K. Pattanaik)
Judge

kabita