

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.3031 of 2022

Sukalal Devnath

....

Petitioner(s)

Mr. L. Pradhan,
Advocate

-versus-

State of Odisha & Ors.

....

Opposite Party(s)

Mr. R.P. Mahapatra,
Additional Govt. Adv.

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
07.03.2022**

Order No.

01.

1. Mr. Pradhan, learned counsel for Petitioner advanced his submission on the premises that the present case involves an application for settlement dated 15.10.2019 at Annexure-2 and to establish that this application is filed in terms of the provision at Section 8-A of the O.P.L.E. Act, Mr. Pradhan, learned counsel for Petitioner attempted to satisfy the Court that the petition at Annexure-2 was filed during pendency of the Encroachment Case no.5696/17-18 and thus submitted that it was incumbent on the part of the Tahasildar to consider such application during pendency of the proceeding vide Encroachment Case no.5696/17-18. Mr. Mahapatra, learned Additional Government Advocate opposing the submission made by Mr. Pradhan, learned counsel for Petitioner submitted that no application for settlement was filed during pendency of such proceeding.

2. Considering the submission made by Mr. Pradhan, learned counsel for Petitioner and on perusal of the document at page 20 of the

brief this Court finds, the case bearing Encroachment Case no.5696/17-18 came to be closed on deposit of the penalty and also determining the Petitioner as an encroacher on 15.03.2018. The document at page 21 of the brief also establishes the same. This Court, therefore, observes, the application vide Annexure-2 was undisputedly not filed during pendency of the Encroachment case No.5696/17-18. However looking to the document at page 22 of the brief, this Court finds, after this development there has been another proceeding initiated against the Petitioner vide Encroachment Case no.3104/2020. This Court, here observes, in the event the Petitioner had any pending application, nothing prevented the Petitioner to pursue such application for being considered in such proceeding and/or even he had also the opportunity to approach afresh for settlement of the disputed land in question in the pending Encroachment Case No.3104/2020. Petitioner failed in approaching in the light of the provision at Section 8-A of the O.P.L.E Act.

In the circumstance, this Court finds, there is no application moved during pendency of any of the proceedings. This Court, therefore, rejects the request made by the Petitioner herein.

3. The writ petition is accordingly dismissed.

(Biswanath Rath)
Judge