

IN THE HIGH COURT OF ORISSA AT CUTTACK
CONTC No. 1159 OF 2022

Hara Podha

....

Petitioner

Miss Deepali Mahapatra, Advocate

-versus-

***S.K. Dalai, D.F.O., Athamallik
Division, Angul***

....

Opp. Party

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
20.12.2022

Order No.

- 7.
1. This matter is taken up through hybrid mode.
 2. The Petitioner in this contempt application alleges non-compliance of the order dated 21st September, 2021 passed by this Court in W.P.(C) No.635 of 2020.
 3. W.P.(C) No.635 of 2020 was disposed of vide order dated 21st September, 2021 with the following direction:

“9. In the case at hand, there is no material on record to show that the Expert Committee has identified the case land as forest land. Further, the case land is not recorded as forest in Government khata. In that view of the matter, this Court finds that there is no difficulty on the part of the Divisional Forest Officer, Athamallik Division, Angul to grant T.T. permit in favour of the Petitioner, if there is no other legal impediment.

10. Accordingly, it is directed that the Divisional Forest Officer, Athamallik Division, Angul-Opposite Party No.2 shall consider the application of the Petitioner for grant of T.T. permit and pass a reasoned order as expeditiously as possible preferably within a period of four weeks from the date of production of certified copy of this order

and grant T.T. permit by that date, if there is no other legal impediment

11. With the aforesaid observation and direction, this writ petition is allowed.”

4. Since the order of this Court was not complied with, the present contempt application has been filed. During pendency of the contempt application, a joint verification was conducted in presence of the Petitioner. In the said joint verification, it was found that none of the trees, for which the T.T. permit has been sought for by the Petitioner is standing over Plot Nos.27,31,32,30/140 under Khata No.08 situated in Mouza Kundali recorded in the name of the Petitioner. On the other hand, it was detected that the trees were standing over Plot No.23, recorded as Gramya Jungle and Plot No.33, recorded as Basti Jogyā. Hence, the application for T.T. permit of the Petitioner was rejected.

5. Miss Mahapatra, learned counsel for the Petitioner submits that by filing affidavit dated 20th September, 2022, the Divisional Forest Officer, Athamallik-Opposite Party has resorted to utter falsehood. Previously it has been categorically held by this Court that the trees are standing over the land of the Petitioner. Hence, a stand contrary to the same cannot be taken by the Divisional Forest Officer, Athamallik in this contempt application. The aforesaid falsehood has been resorted to get rid of rigor of the contempt proceeding. Hence, she prays for rejecting the affidavit filed by the Divisional Forest Officer, Athamallik-Opposite Party on 20th September, 2022 and to direct the Opposite Party to issue T.T. permit forthwith and also impose punishment.

6. Mr. Mishra, learned Additional Standing Counsel, on the other hand, submits that pursuant to the direction of this Court, a joint verification was conducted in presence of the Officials of both the Forest and Revenue as well as in presence of the Petitioner. After geo tagging, it was detected that none of the trees, for which the application for T.T. permit was sought for stands over the land of the Petitioner. On the other hand, those are standing over land recorded as Gramya Jungle, Basti Jogya or inside the Handapa Reserved Forest. The Petitioner being satisfied with the joint verification report has put his thumb impression on the same. Hence, he prays that the contempt proceeding may be dropped.

7. Considering the rival contentions of the parties, this Court finds from the affidavit dated 20th September, 2022 that none of the trees for which T.T. permit was sought for by the Petitioner stands over the plot recorded in his name. Further, those trees stand either over Plot No.23 recorded as Gramya Jungle or Plot No.33 recoded as Basti Jogya. Some of the trees also found to be inside the Handapa Reserved Forest, as per the Global Positioning System Coordination.

8. The submission of Miss Mahapatra, learned counsel for the Petitioner that earlier this Court has recorded a finding that all the trees stand over the land recorded in the name of the Petitioner cannot be taken into consideration at this stage in view of the direction of this Court in W.P.(C) No.635 of 2020. Further a disputed question of fact cannot be adjudicated upon in a contempt application. Since the order passed by this Court has

already been complied with, the Petitioner, if feels aggrieved may assail the same availing the remedy under the statute.

9. With the aforesaid observation, this CONTC is dropped.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge

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