

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.4277 of 2022

Santosh Kumar Pradhan

....

Petitioners

Mr. D. Mohapatra,
Advocate

-versus-

State of Orissa & Ors.

....

Opposite Parties

Mr. S.P. Panda,
Addl. Govt. Adv. for the O.Ps.1 to 3
Mr. S. Roy,
Adv. for Caveator

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
07.03.2022**

Order No.

03. 1. Hearing the matter on last occasion, taking note of the allegation of Mr. Mohapatra, learned counsel for Petitioner that the encroachment proceeding has been decided not only *ex parte* but also without affording an opportunity of show cause, this Court directed the learned State Counsel to produce the file relating to the Encroachment Case No.4 of 2022.
2. Today during course of hearing Mr. Mohapatra, learned counsel for Petitioner brought to the notice of this Court through page 15 and the recording of the Tahasildar and submitted that even though there is no show cause, it is strange to observe that the Tahasildar has indicated to have considered the show cause at the instance of the objector and thereafter has decided the matter accordingly.

3. Keeping the serious allegation made by Mr. Mohapatra, learned counsel for Petitioner in view and on perusal of the case records relating to the Encroachment Case No.4 of 2022 being produced by the learned State Counsel in Court today, this Court finds, there was no objection on record as on the date of disposal of the proceeding. This Court, therefore, finds strange in the manner of disposal of the proceeding by the Tahasildar. Thus while deprecating the manner of disposal of such serious proceeding by the Tahasildar, this Court observes, since the encroachment proceeding involves eviction of the persons concerned, the Tahasildar should have been more careful in dealing with such matter and should have made endeavor to dispose of such proceedings by allowing the objectors to file objection even there will be some liberal adjournments and then disposing of such proceeding.

In the circumstance, this Court while interfering in the impugned order, sets aside the same and remits the matter to the Tahasildar for fresh disposal providing opportunity of objection and hearing to all the parties concerned. Since this matter is decided on contest, this Court directs both the parties to appear before the Tahasildar, Nimapara on 29.03.2022 alongwith a copy of this order and also with objection, if any, and take the date of hearing. It is also made clear that the proceeding involved shall also be disposed of within a period of two months from the date of hearing.

4. The writ petition stands disposed of.

(Biswanath Rath)
Judge