

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C)-PIL No.3064 of 2018

Iswar Chandra Behera & Others *Petitioners*

Mr. Bhagaban Mohanty, Advocate

-versus-

*RDC, Northern Division,
Sambalpur & Others* *Opp. Parties*

Mr. D.K.Mohanty, AGA

**CORAM:
THE CHIEF JUSTICE
JUSTICE R.K.PATTANAIK**

Order No.

**ORDER
27.07.2022**

12. 1. The Petitioners are the ten villagers of village Nandhanpur, P.O. Mangalpur, P.S. Dhenkanal Sadar have filed the present PIL asking for removal of illegal construction on Plot No. 427 in Rakhita Khata No. 127 of Mouza Nadhanpur over an area of Ac. 0.090 decimal.
2. In response to the petition, a counter affidavit has been filed on behalf of Opposite Party Nos. 1 to 4 by the Tahasildar, Dhenkanal inter alia it is stated in Para-7 as under:

“That, at the outset, it is submitted that Mandap has already been constructed over “Gochar” kissam land at the behest of village committee members as well as elected Ward Members and Sarpanch of Mangalpur Gram Panchayat for betterment of local people. Demolition of Mandap will create law and order situation in the locality. That apart, Collector, Dhenkanal while disposing the representation in obedience to order dtd. 2.4.2015 passed by the Hon’ble Court in W.P.(C) No.5669 of 2015 has specifically observed that Mandap which has already been constructed will use for the better interest of the general public. Further has issued a direction to the BDO, Sadar, Dhenkanal as well as Tahasildar, Dhenkanal not to release any fund for

the purpose of further construction of Mandap and the land where Mandap has been constructed shall not be settled in favour of the villagers under the OGLS Act and Rules. Admittedly, there are two groups in village Nadhanpur. One group is supporting the construction of Mandap. Due to political rivalry, one group of villagers have filed the present writ petition before the Hon'ble Court for demolition of Mandap which has already been constructed over Plot No.427, under Khata No.127 of Mouza-Nandhanpur in the district of Dhenkanal. In such view of the matter, writ petition filed by the petitioner may be dismissed.”

3. It is further been averred that in the same village there are two groups one opposing the Mandap and other supporting it. It appears that out of the total area of Ac. 0.090 decimal and only Ac.0.01dec. has been used for construction the Mandap and remaining land still lying vacant and the villagers of Nandhanpur are still using the same. The contention of the Opposite Parties is that majority the villagers are supporting the construction the Mandap and that the present petition has been filed out of some political rivalry.

4. There is a denial of the above averments in the rejoinder affidavit of the Petitioners. However, the fact remains that the Mandap has been in place since 2015 i.e. for more than seven years and it is obviously being used by the villagers. By the time the order was passed in the OPLE Case No. 17/2015-16, the Mandap was already in place.

5. The local administration is in the best position to assess the possible law and order implications of any coercive action. It appears that since the Petitioners are the smaller group which is opposing the Mandap and in view of the circumstances

explained in the affidavit of the Tahasildar, the Court is not inclined to issue any directions for removal of the Mandap at this stage.

6. The writ petition is disposed of in the above terms.

7. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(R.K.Pattanaik)
Judge

