

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 4566 of 2022

Yunus Daud

....

Petitioner

Mr.Ashis Kumar Mishra, Advocate

-versus-

State of Odisha and others

....

Opp. Parties

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

18.04.2022

Order No.

3. 1. This matter is taken up through hybrid mode.
2. Petitioner in this writ petition prays for a direction to Tahasildar, Kantabanji-Opposite Party No.3 to clarify his right and title in respect of Holding No.234/969 situated in mouza Kantabanji.
3. It is submitted by Mr. Mishra, learned counsel that although Holding No.234/969 stands recorded in the name of the Petitioner, two persons, namely, Tusar Kanta Suna and Subodh Kanta Suna by forcibly entering upon the said land are creating disturbance in the peaceful possession of the Petitioner for which he has filed CMC No.18 of 2020 and the same is pending before the concerned authority. As the said two persons claiming right, title and interest in respect of the land in question, Tahasildar, Kantabanji is under legal obligation to clarify the situation. Detailing the above, the Petitioner has also filed a representation to the Tahasildar, Kantabanji on 5th

January, 2022 under Annexure-2, which is yet to be disposed of. Hence, he prays for a direction to the Tahasildar, Kantabanji to dispose of the representation under Annexure-2 to clarify the situation.

4. Mr. Mishra, learned ASC vehemently objecting to the above submission, submits that the Tahasildar, Kantabanji has no jurisdiction to clarify the right and title in respect of a particular land. It is the Civil Court in which the Petitioner can establish his title if there is dispute with regard to the same. Hence, the prayer made in the writ petition is misconceived and the same is not maintainable before this Court.

5. On perusal of record, it appears that the land in question stands in the name of the Petitioner. However, he claims that two persons, namely, Tusar Kanta Suna and Subodh Kanta Suna are creating disturbance in his peaceful possession by claiming right, title and interest thereon. Tahasildar, Kantabanji is not appropriate authority to decide the issue of right, title and interest over the land in question. Hence, the relief sought for cannot be granted in this writ petition. Moreover, the above two persons, who are allegedly creating disturbance in the peaceful possession of the Petitioner over the land in question are not impleaded as parties to the writ petition. As such, the prayer made in the writ petition is misconceived.

6. Accordingly, the writ petition is disposed with an observation that the Petitioner, if so advised, may work out his remedy in accordance with law.

(K.R. Mohapatra)
Judge