

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) NO.4609 OF 2022

P.Nageswar & ors.

....

Petitioners

Mr.S.K.Dalai, Adv.

-versus-

State of Odisha & ors.

....

Opposite Party(s)

Mr.S.P.Panda, Adv.

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
15.2.2022**

**Order
No.**

1.

1. Heard learned counsel for the Parties.

2. In filing the Writ Petition involving a challenge to the notice at Annexure-2 series, learned counsel for the Petitioners taking this Court to the provision at Section 459 of the OMC Act, 2003 since meant for removal of unsafe structure objected to the impugned notice.

3. This Court in course of hearing on admission of the matter finds, pursuant to series of notice at Annexure-2 series issued on 21.1.2022 in the meantime, the Petitioners have already approached the Commissioner, BMC, vide Annexure-3 to recall such notice on raising their objection to such notice. It appears, each of the Petitioners also took maintainability of such notice under provision of Section 459 of OMC Act, 2003. This Court records the statement of the learned counsel for the Petitioners that there has been no vacating of such premises by the Petitioners as of now. In this situation, this Court observes, for the Petitioners' raising question of maintainability of notice under Section 459 of the OMC Act, 2003

involved therein raised through their objection by way of Annexure-3, let O.Ps.2 & 3 to look into the grievance of the Petitioners at Annexure-3 and pass appropriate order on the same also by involving the group of Petitioners or the representatives of the Petitioners for the purpose of hearing of such objection. In the consideration process, the Authorities shall do well in taking a view on the maintainability of such notice in view of provision indicated herein above. The entire exercise shall be completed within a period of two months from the date of communication of this order. Continuance of the Petitioners in the premises in the process of decision will be at the risk of the Petitioners.

4. The Writ Petition stands disposed of accordingly.

M.K.Rout

(Biswanath Rath)
Judge

