

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.4928 of 2022

Sumanta Kumar Prusty & Ors. ***Petitioner(s)***
S. Mishra,
Adv.

-versus-

State of Odisha & Ors. ***Opposite Party(s)***
Mr. S. Ghose,
Addl. Standing Counsel

CORAM:
JUSTICE BISWANATH RATH
ORDER
23.02.2022

Order No.

02. 1. By way of this writ petition the Petitioners have challenged the notices of eviction vide Annexure-6(s).
2. Mr. Mishra, learned counsel for Petitioners while not disputing that the eviction drive is required for the purpose of construction of flyover/bridge involving the National Highways involved herein, but however challenged such action on the premises that the Petitioners are all licensees and occupying shop premises involved by virtue of such license. It is also submitted that such shop rooms are only source of livelihood of the Petitioners and on handing over of possession of the shop rooms in shape of core house by way of agreement, the Petitioners were required to undertake

such shop rooms and the shop owners i.e. the Petitioners have also spent huge amount to make it use worthy. It is, in the premises that there has been license in favour of the Petitioners and further for there has been undertaking of making of the core houses at the expenses of the licensee, Mr. Mishra, learned counsel for Petitioners contended that before undertaking the eviction drive, there is no arrangement of alternate accommodation to the Petitioners and such action is going to take away their livelihood. There is also no arrangement for permanent relocation to the Petitioners. It is, in the premises, Mr. Mishra, learned counsel for Petitioners challenged the impugned notices at Annexure-6.

3. This matter was taken up for hearing on 18.02.2022 and was adjourned on the asking of the Court to Mr. Mishra, learned counsel for Petitioners to obtain instruction from the respective Petitioners regarding their willingness to vacate the shop rooms within some time particularly keeping in view it involves construction of a flyover/bridge having a larger public interest. Today on listing of the matter Mr. Mishra, learned counsel for Petitioners prays for one month time to vacate the shop rooms in question, but however seeks direction to the Municipal Authority, Joda for consideration of the case for Petitioners for temporary relocation for the time being and also for permanent rehabilitation keeping in view their long

possession of such shop rooms and also involving some investment on their own.

4. Keeping in view the offer of the Petitioners that they are ready and willing to vacate the shop rooms in question within one month, but however, with certain riders this Court finds, the Petitioners have genuine case inasmuch as they were all shop owners and licensees to run such shop rooms and there has also been some agreement between the parties authorizing the Petitioners to earn their livelihood through such shop rooms and there is also claim that each of the Petitioners spent huge amount to bring the shop rooms involved use worthy. Undisputedly for the action of eviction of all the Petitioners, the Petitioners are likely to be prevented from earning. Further, there is also loss of investment made by each of the Petitioners. It is keeping the above in view, this Court though observes, there is no infirmity in issuing such orders at Annexure-6 (series), but however, while issuing such notices the Municipal Authority should have kept in mind arranging temporary relocation of the Petitioners and at a subsequent stage for rehabilitation of the Petitioners. It is, in the above circumstance, though this Court declines to interfere in the eviction notices, but however, permits the Petitioners to vacate the shop premises within three weeks hence, however at the same time also permits the Petitioners to make

individual written request to the Municipal Authority in order to allot a temporary place for their temporary re-settlement to have their livelihood maintained and also in the event any new shop rooms likely to be constructed in future within the Joda Municipal Area, they may be accommodated by way of permanent settlement in such rooms. It is further directed that in the event the Petitioners make any such application within one week hence, they may be permitted to allow retain the said shop rooms for a period of two weeks further and at the same time this Court also directs the Municipal Authority to give consideration to the request of the Petitioners, in the event they are all licensees, to allot some places for their temporarily running their business at least till they are permanently rehabilitated.

5. With the aforesaid observation and direction the writ petition stands disposed of.

(Biswanath Rath)
Judge