

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) NO.5088 OF 2022

Badal Kumar Das

....

Petitioner

Mr.B.N.Mohapatra, Adv.

-versus-

Cuttack Development Authority & ors.

Opposite Party(s)

Mr.D.Mohapatra, Adv. for O.Ps.1 to 3.

Mr.P.K.Rout, Adv. for O.P.4.

**CORAM:
JUSTICE BISWANATH RATH**

**Order
No.**

**ORDER
25.2.2022**

01.

1. Heard learned counsel for the Parties.
2. Taking this Court to the impugned order at Annexure-24, a serious allegation is made by the learned counsel for the Petitioner that in spite of providing all required documents, there is no consideration of the same and there is repeated indication of non-compliance of the requirements. Furthermore in the impugned order, the claim of the Petitioner appears to have been rejected merely because of objection to such claim submitted by one of the brothers of the Petitioner. A claim is now made for interfering in the impugned order and passing appropriate order.

3. Mr.P.K.Rout, learned counsel for O.P.4, brother of the Petitioner however supports the impugned order and raises serious objections while defending such order.

4. Mr.D.Mohapatra, learned counsel for the C.D.A. also based on the findings therein also attempted to support the impugned order and requested for dismissal of the Writ Petition.

5. Considering the rival contentions of the Parties, this Court finds, the dispute involves consideration of regularization application at the instance of the Petitioner involving some other constructions in the disputed premises under the provision of regularization of Scheme, 2018-2019. The Application was registered as File No.PLN-BDP-R 1066/2020. Undisputedly, there has been a complain by the brother of the Petitioner, Mr.Alok Kumar Das complaining entertainability of such Application. At the same time, this Court going through the non-consideration of the ground raised herein and going through the reasoning in absence of the order at Annexure-24 finds, there is rejection of the claim of the Petitioner simply on the premises that he is not cooperating in filing required documents, further there is a complain involving such Application at the instance of the brother of the Petitioner himself. For the opinion of this Court, there may be complain on the application of regularization but for a request involving

regularization of the construction involved therein, in the event the Development Authority has already asked for supply of documents and there is deficiency in supply of documents, nothing prevents the Development Authority to consider the claim of the Petitioner and decide accordingly, but however remaining within the documents already supplied while also considering the complain against the claim of regularisation. In the circumstance, this Court finds, there has been mechanical disposal of the claim of the Petitioner, vide Annexure-24.

6. In the process, interfering with the impugned order, this Court sets aside the order at Annexure-24 and remands the matter to the Competent Authority to re-do the exercise involving File No.PLN-BDP-R 1066/2020 but however remaining within the documents already provided by the Petitioner, further also taking into account the objection, if any, by Alok Kumar Das, O.P.4, brother of the Petitioner. Keeping in view the involvement of an objection of the brother of the Petitioner, there will be also an on-spot enquiry involving all concerned by the Development Authority before coming to take a decision on the Application of the Petitioner. The entire exercise will be completed within a period of two months from the date of production of copy of this order. Both the Petitioner and O.P.4 are directed to appear before the

Development Authority along with copy of this order on 7th March, 2022 and take the date of spot enquiry as well as date of final hearing. Both the Parties also undertake to cooperate in the enquiry proceeding as well as in the hearing proceeding.

7. With the above order, the Writ Petition stands disposed of.

(Biswanath Rath)
Judge

M.K.Rout

