

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.5267 of 2022

Keshaba Kanda

....

Petitioner(s)

Mr. A. Pradhan,
Advocate

-versus-

State of Odisha & Ors.

....

Opposite Party(s)

Mr. S.P. Panda,
Additional Govt. Adv.

CORAM:
JUSTICE BISWANATH RATH
ORDER
07.03.2022

Order No.

1. 1. Learned counsel for Petitioner alleges that finding the order of the Original Authority in disposal of the Encroachment Case No.7/4-29/2010 the Petitioner filed Appeal bearing Encroachment Appeal No.5 of 2022 and it is alleged that in the guise of Panchayat Election the appellate authority is not undertaking the exercise of admission of the appeal. As a consequence, there is no consideration of the interim application therein and the eviction order is already staring at the head of the Petitioner. It is submitted that unless an interim order is passed by the appellate authority, there will be eviction even during pendency of the appeal proceeding. A request is, therefore, made to at least direct the Sub-Collector, Sadar, Sambalpur-O.P.2 to take up the interim application involving the appeal noted hereinabove and pass appropriate order.
2. 2. Drawing the attention of this Court to the date of filing of the appeal Mr. Panda, learned State Counsel, however, alleged that the

Petitioner doesn't give time to the appellate authority to undertake such exercise.

3. Considering the submissions made by the parties, without entering into any such controversies at this stage and finding that one month time from the date of issuance of the impugned order has already passed in the meantime and the order of eviction is staring at the head of the Petitioner, this Court is of the view that the Sub-Collector should have been careful in passing interim order prior to undertaking such exercise of eviction by the Tahasildar and also before expiring of thirty days' time. This Court, therefore, directs the Sub-Collector, Sadar, Sambalpur to take up the interim application at least within a period of one week from the date of communication of an authenticated copy of this order by the Petitioner and pass appropriate order in accordance with law. It is further directed that if the Petitioner is still in possession of the disputed property in question, his possession shall not be disturbed for period of three weeks.

4. The writ petition stands disposed of.

(Biswanath Rath)
Judge