

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C). No.5767 of 2022

Arabinda Khuntia & Ors.

....

Petitioner(s)

Mr.T.K.Mishra, Advocate

-versus-

State of Odisha & Ors..

....

Opposite Party(s)

Mr.S.P.Panda, AGA

**CORAM:
JUSTICE BISWANATH RATH**

ORDER

17.03.2022

Order No.

2.

1. Heard learned counsel appearing for the parties.

2. This writ petition involves the following prayer:

“Under the aforesaid facts and circumstances of the case it is, therefore, prayed that your lordship may kindly be graciously pleased to admit the Writ Petition, direct the opp. parties not to evict the petitioners from their Kiosks without following the due process of law and further be pleased to direct the opp. parties to rehabilitate and resettle the petitioners before eviction;

And further be pleased to pass any other order/orders, direction/directions, writ/writs as this Hon'ble Court may deem fit and proper;

And for which act of kindness, the petitioner shall as in duty bound ever pray;

3. Involving the area under Capital Hospital, petitioners claim their existing right on the basis of allotment orders. However, there is no dispute that the area under occupation of the petitioners is in requirement of construction purpose for the development of Capital Hospital at Bhubaneswar. Petitioners taking this Court to their plea on the premises that establishment offer disputed site is the only source of their livelihood and there will be serious affecting in the maintenance of livelihood of the petitioners on vacating the same. Petitioners however submits that in the event the area is badly necessary while asking petitioners' to vacate the disputed land, nothing prevents the competent authorities in considering their resettlement and or rehabilitation in the shops likely to come up in future. After failing in their attempt through representation at Annexure-5 series to at least rehabilitate the petitioners

by way of re-settlement, the petitioners have approached this Court for appropriate direction. This matter was listed on 14.03.2022 on which date considering the grievance/suffering of the of the petitioners, this Court directed the State Counsel to at least obtain instruction in the matter of requirement of the land involved. On instruction, Mr.S.P.Panda, learned Additional Government Advocate on his appearance by producing instruction memo submitted that the authority is in planning for construction of Post Graduate Institute near south side of Capital Hospital, Bhubaneswar. Unless the land occupied by the petitioners get clear, it becomes difficult on their part to go ahead with construction involving public interest. He however did not have instruction on the resettlement of the petitioners.

4. Considering the rival contentions of the parties and as this Court finds the area under occupation of the petitioners is required for the developmental purpose of Capital Hospital by bringing a Post Graduate Institution and looking to the nature of allotment of Kiosks and shops in favour of the petitioners, this Court observes, the petitioners have no permanent right to stay over such land. At the same time, this Court also takes cognizance of the materials on record and the plea of the petitioners that the shop rooms of the petitioners are the only source of their livelihood and that on construction of such institution, in absence of resettlement petitioners are likely to be facing hardship to maintain their livelihood.

5. In the circumstance, while finding that petitioners have no right to stay over the disputed property and the disputed site is required for the development of the hospital involving a greater public interest and the State while permitting the petitioners to vacate the disputed premises at least within a period of one month also requires to look into the grievance of the petitioners vide Annexure-5 series and in the event there is any proposal for construction of shop rooms inside the medical campus or nearby the medical campus, both opposite party nos.3 and 4 shall attempt to rehabilitate the petitioners.

6. With this observation and direction, the writ petition stands disposed of.

(Biswanath Rath)
Judge

Sks

