

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.7146 of 2022

Brundaban Mallik & Ors.

....

Petitioner(s)

Mr. M. Mohapatra,
Sr. Advocate being assisted by
Mr. S. Mohanty,
Advocate

-versus-

Union of India & Ors.

....

Opposite Party(s)

Mr. P.K. Parhi,
ASG of India with
Mr. D. Gochhayat,
CGC

CORAM:

JUSTICE BISWANATH RATH

ORDER

17.03.2022

Order No.

01.

1. Taking this Court to the pleadings and the documents appended to the writ petition, a serious allegation is made on the premises that when the Petitioners' appearing herein are already identified in the "USHA SURVEY" to be Slum Dwellers, instead of granting protection to such persons under the provision of the Odisha Land Rights to Slum Dwellers Act, 2017 hereinafter in short be reflected as "The Act, 2017", there is sudden act at the instance of the Railway Authorities for eviction of the Petitioners by issuing notice under Annexure-2(series) thereby threatening each of the Petitioners to vacate the disputed land by particular date or else to face appropriate proceeding involving the notices. There is also a complaint that the notices do not involve any land particulars involving such persons. It is alleged that even though

the Petitioners brought the development to the notice of the Railway Authorities, the Railway Authorities are not hearing the same and bent upon for shifting of the Petitioners. It is also submitted that Petitioners are the landless person and this is the only land for having their residence. It is also brought to the notice of this Court that in considering similar situation this Court in disposal of the W.P.(C) No.6611 of 2006 on 6.03.2019 has given certain directions therein.

2. It is, at this stage of the matter, Mr. Parhi, learned ASG of India vehemently objected to the claim of the Petitioners for protecting their interest at least till re-settlement is made involving the Petitioners. Mr. Parhi, learned ASG of India also contended that once the Act, 2017 came to the rescue of the Petitioners, the Railway Authorities have no business involving this issue and on the other hand the District Administration has the responsibility for protecting the interest of the Petitioners.

3. Considering the rival contentions of the parties, this Court finds, there is no dispute that the Petitioners are unauthorized occupiers of a piece of land claimed to be the Railway property. There is also no dispute that the Petitioners have been identified under the "USHA SURVEY" for availing the benefits in the provision of the Act, 2017.

In the circumstance, this Court considering the grievance of the Petitioners that the Railway Authorities are going to evict the Petitioners forcefully and they have no other accommodation to shelter themselves in the process and for a protection is already there in the Act, 2017, this Court in disposal of the writ petition recording the statement of Mr. Parhi, learned ASG of India that there is no eviction taking place as of now involving the Petitioners, directs the Opposite Parties not to disturb the Petitioners for two months and in the meantime both the Railway Authorities as well as the State Authorities

are also directed to sit together and make an attempt to find-out alternate arrangement for re-settlement of the Petitioners in appropriate area. It is also directed that in the decision process each of the Petitioners shall be involved and the Authorities are also directed to find-out whether each of the Petitioners are in fact landless person or not.

4. The writ petition stands disposed of with the above direction.

(Biswanath Rath)
Judge

Ayaskanta Jena

