

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.19905 of 2017 (PIL)

Santosh Kumar Sahoo and Ors. ***Petitioners***

Mr. Karunakar Rath, Advocate

-versus-

State of Odisha and Ors. ***Opposite Parties***

Mr. Iswar Mohanty, AGA

**CORAM:
THE CHIEF JUSTICE
DR. JUSTICE S.K. PANIGRAHI**

**ORDER
26.07.2022**

Order No.

6. 1. The grievance of the present petitioners is about construction of a shopping market complex in Balasore Town which according to the petitioners would cause obstruction on the public road preventing easy ingress and egress for the public towards Balasore Railway Station.
2. While directing to issue notice in the present petition on 11th October, 2017, an interim order was passed staying further construction of the market complex.
3. In response to the notice issued, a counter affidavit has been filed by Balasore Municipality on 3rd November, 2017 where inter alia it has been stated in paragraphs 4 and 8 as under:

“4. That the Municipality has tried its level best to provide alternative livelihood measures for the evicted street vendors. This Municipality constructed the market complex near the main station Road over plot No- 642 part Khata No- 407, Kisam- Nayan Jodi and plot No- 644 part Khata No- 407, Kisam- Nayan

Jodi, Mouza Bhaskarganj, unit-10 recorded in favour of Balasore Municipality for the rehabilitation of the evicted street vendors. The width of place was considered and it will not create any inconvenience for ingress and egress of public where market place is under construction over a portion of Nayanjori (road side land). It will also prevent the encroachment of such land for use of land grabbers in the garb of street vending.

Since this Municipality has constructed the market complex only to rehabilitate the evicted street vendors on a piece of available land it has not violated any of the provisions of law.

Xx xx xx xx xx

8. That in reply to paragraph-7 of the writ petition, it is respectively submitted that the Municipality have already stopped the construction works since about one month ago after receiving the orders of Collector-cum- District Magistrate, Balasore.

It is worthwhile to mention here that this Municipality have not constructed the shop rooms all of a sudden as alleged. Regarding such construction, an advertisement for 'e' Tender call notice No- 5631/ dt.11.11.2016 was published in the daily news paper, The Dharitri & The Pragatibadi on 15.11.2016. If there was any complain/ objection regarding construction of such shop rooms, the petitioners could have raised their objection at that time by which the Municipality could have got sufficient time to take decision in this score.”

4. For the last five years, no rejoinder affidavit has been filed to contradict the above averments made in the counter affidavit.

5. Learned counsel for the petitioners points out how the market complex remains half constructed on account of the interim order of this Court. In fact because of stoppage of construction work some antisocials have forcefully occupied the structure.

6. In view of the above clarification on affidavit by the Balasore Municipality as regards the factual position, which has not been contradicted, this Court finds that there is no justification for continuance of the interim order passed by this Court.

7. Learned counsel for the petitioners refers to the judgment passed by this Court on 23rd August, 2021 in W.P.(C) Nos.2376 and 8991 of 2021 which concerned the relocation and rehabilitation of shopkeepers operating under the Flyover Bridge at Balasore. That is an independent issue which has nothing to do with the construction of the shopping market complex. This Court feels no reason as to why rehabilitation/ and resettlement in terms of the judgment of this Court passed in W.P.(C) Nos.2376 and 8991 of 2021 should prevent the construction of the above shopping market complex.

8. Consequently, this Court finds no merit in the present petition.

9. The writ petition is dismissed. The interim order passed earlier stands vacated.

(Dr. S. Muralidhar)
Chief Justice

(Dr. S.K. Panigrahi)
Judge

B. Jhankar