

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.9008 of 2012

Narayan Swain

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Petitioner

Mr. Amiya Kumar Mohanty-A, Advocate

-versus-

***Board of Trustee, represented through
Secretary, PPT, Jagatsinghpur and
another***

Opposite Parties

Mr. B. P. Das, Advocate

**CORAM:
THE CHIEF JUSTICE
JUSTICE R. K. PATTANAİK**

**ORDER
01.08.2022**

Order No.

11. 1. The present petition has been filed challenging an order passed by the Paradip Port Trust (PPT) requiring the Petitioner to vacate the premises under his occupation, where he is running a furniture shop, on land allotted to him by the Opposite Parties-PPT for a period of 20 years by a resolution dated 25th March, 1992.
2. A demand notice was issued on 24th April, 1992 asking the Petitioner to deposit Rs.11,397/- to complete lease registration formalities. According to PPT, although he deposited the said amount on 25th May 1992, he did not submit the ground rent amounting to Rs.5,025/- for the period from 1986 to 1992. He also could not complete the registration formalities in time.

3. In the meanwhile, the land premium was revised with effect from 1st April, 1993 from Rs.4 lakhs per acre for 30 years to Rs.12 lakhs per acre for 30 years. The Petitioner was issued with a notice on 26th August, 1994 to deposit the differential sum of Rs.20,464/-. This again, he was unable to do.

4. On 1st April 1995, the Ministry sent a communication to all Major Ports Trusts that leasing of land should be done only by inviting competitive bids.

5. The Petitioner's case was again considered by the Board and by its resolution dated 21st June 1996, it was decided that land would be given to the Petitioner on licence basis on the pre-revised rates on the condition that no permanent structure would be allowed.

6. On 28th January 1998, the Petitioner appealed to the Chairman of the PPT for allotment of the land on lease basis. While his request in that regard was not considered, he was given an option to avail one shopping unit under the control of the PPT for running his business. It is stated that the Petitioner did not agree to this and continued in the allotted premises as a licensee in terms of the aforementioned resolution of the Board of Trustees. Thereafter, the licence was renewed from time to time.

7. The licence period came to an end on 1st October, 2011. The Petitioner's request for renewal for a further period of 11 months was considered and in view of the changed land policy guidelines and the need of the land for future expansion of the port, the Committee decided to recommend his case for extension for a period

of three months up to 31st December, 2011. He was asked to deposit Rs.4,784/- towards licence fees for the said three months.

8. With the Petitioner not vacating the space after the aforementioned period, a demand note was issued on 5th April, 2012 for asking him to deposit Rs.12,210/- for the period of overstay from 1st January, 2012 to 13th April, 2012.

9. The case of the Petitioner is that there were four parties including the present Petitioner, who were granted lease to begin with. The Petitioner and the three others were running furniture shops. The Petitioner denies that there was any delay in depositing of the fees as demanded by the PPT from time to time. It is urged by learned counsel for the Petitioner that there was no justification in not granting renewal of the licence beyond 31st December, 2011. The other ground raised by the Petitioner is that Petitioner was discriminated against. It is contended that one Nilamani Moharana, who also allotted a shop by the same resolution dated 25th March 1992, was allotted the land on lease basis.

10. As far as the above point is concerned, the PPT has in para 7 of its counter affidavit explained as under:

“7. That, with regard to Paragraph 4 of the Writ Application, the Opposite Parties would humbly submit that the Port was allotted the land on lease basis in favour of Shri Nilamani Moharana and other parties as stated by the Petitioner on the basis of the kind approval of the Board. But only Shri Nilamani Moharana had completed the registration formalities within stipulated time. Since other parties failed to make the registration within stipulated time and also on account of enhancement of land premium from 1993, their cases could not consider.

But at present, considering the future expansion of the port, the said license hold lands was not renewed w.e.f.31.12.2011 with prior intimation to the Petitioner.”

11. Consequently, this Court is not satisfied that the Petitioner has been subject to any discrimination.

12. Finally, it is urged by learned counsel for the Petitioner that the Petitioner is a ‘poor person’ and, therefore, some leniency should be shown to him and he should not be compelled to vacate the land in question for PPT to implement its new policy guidelines.

13. The Court is unable to accept the above submissions. The Petitioner has continued in the premises for over 10 years despite the period of licence coming to an end, pursuant to an interim order dated 17th May, 2012 of this Court. With PPT adopting a changed policy on the allotment of land for commercial purpose pursuant to the Ministry’s guidelines, it is bound to do so only by way of public auction. In the circumstances, the Court cannot possibly issue a mandamus to the PPT to make an exception for the Petitioner. Therefore, the Court sees no reason why should at this stage, after 10 years, direct the PPT to examine the Petitioner’s representations of 2012 and direct that he should be allowed to continue in the land in question notwithstanding the changed policy guidelines.

14. The Court, therefore, finds no reason whatsoever to interfere in the present petition. As and when commercial spaces are offered by PPT by way of public auction for allotment on licence basis, it will be open to the Petitioner to participate in such public auction.

15. Accordingly, the writ petition is dismissed, but in the circumstances, with no order as to costs. The interim order passed earlier stands vacated.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

M. Panda

