

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C). No.11059 of 2020

Pravakar Pradhan

....

Petitioner(s)

Mr.H.N.Mohapatra, Advocate

-versus-

State of Odisha & Ors.

....

Opposite Party(s)

Mr.S.Ghose, ASC

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
03.01.2022**

Order No.

1.

1. Heard learned counsel appearing for the parties.

2. This writ petition involves a challenge to the order at Annexure-2. Mr.Mohapatra, learned counsel appearing for the petitioner takes this Court to the direction of this Court in the previous writ petition i.e. W.P.(C).No.,7887 of 2018. Reading the order quoted at page 4 of the brief, this Court finds, this Court in disposal of W.P.(C).No.7887 of 2018 simply directed for consideration of the representation of the petitioner at Annexure-4 within a stipulated period of time and after giving opportunity of hearing, It is at this stage, on perusal of Annexure-2 clearly discloses wrong recording of the order passed by this Court in W.P.(C) No.7887 of 2018. In such event there was no room for the Tahasildar, Gop to make a wrong recording of the direction of this Court and directing for taking immediate steps for eviction of the petitioner from the suit land. Mr.Mohapatra, learned counsel further contended that there is either wrong reading of the order of this Court or the Tahasildar, Gop has failed to appreciate the direction of this Court. Mr.Mohapatra, learned counsel for the petitioner thus claims for interfering in the order at Annexure-2 and sets aside the same.

3. Mr.Ghose, learned Additional Standing Counsel for the State however taking this Court to the order at Annexure-2 submitted that there is no dispute that there has been wrong recording of the direction of the High Court in disposal of W.P.(C).No. 7887 of 2018, however, in the event representation of the petitioner at Annexure-4 is decided after giving opportunity of hearing, there may not be any wrong in passing such order.

4. Considering the rival contentions of the parties, this Court from paragraph-6 finds there is clear pleading in paragraph-6 that there is no opportunity of hearing to the petitioner before the order at Annexure-2 is passed. This matter is pending since March, 2020. There is also no counter affidavit controverting such submission as of now. This Court at this stage calling for order dated 16.05.2018 in W.P.(C) No.7887 of 2018 finds, the Tahasildar misguided and misapplied the order dated 16.05.2018 which had only directed to consider the representation of the Petitioner with opportunity of hearing to the Petitioner. This Court in the circumstance finds, the direction in Annexure-2 remains contrary to the order of this Court in disposal of W.P.(C).No.7887 of 2018 and as such interferes in the order at Annexure-2. This Court while setting aside the same, remits the matter back to the Tahasildar, Gop-opposite party no.3 to take up the issue afresh providing opportunity of hearing to the petitioner and pass appropriate order.

5. Let the petitioner appear before the Tahasildar, Gop-opposite party no.3 with a certified copy of this order on 10.01.2022 and take the date of hearing. Decision, as appropriate be also taken within a period of six weeks thereafter. Till such period, there shall be no coercive action against the petitioner.

6. The writ petition stands disposed of with the observation and direction made hereinabove.

(Biswanath Rath)
Judge

Sks

