

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.9400 of 2022

Prahallad Sahoo ***Petitioner(s)***
Mr.D.Ray,
Advocate

-versus-

State of Odisha & Ors. ***Opposite Party(s)***
Mr.S.Ghose,
ASC

CORAM:
JUSTICE BISWANATH RATH

ORDER
18.04.2022

Order No.

01. **1.** Heard the submission of learned counsel for the parties.
- 2.** There is serious allegation that person to notice at Annexure-3 series- Page-14 of the brief, Petitioner even though appeared before the competent Authority on 11.02.2022, there was no hearing and on the other hand on his attending, he has been simply handed over with an order of eviction as finds place at Page-13 of the brief. It also appears, there has been collection of penalty from the petitioner on the same date. Learned counsel for petitioner alleges that being handed over with order of eviction, the petitioner had no further objection to deposit the penalty.
- 3.** It is further alleged since there is no expiry of thirty (30) days' time for appeal, the penalty should not have been received by the Competent Authority at least within a period of thirty days. Be that as it may, this Court finds, the grounds raised herein can be agitated in appeal and consequentially could have been adjudicated by the Appellate Authority, this Court finds, the writ petition has been filed

straightway in avoiding the statutory remedy of appeal and is not permissible.

4. In the circumstance, this Court disposing of this writ petition as not entertainable at this stage, but however, since the petitioner has scope of appeal, permits the petitioner to file appeal at least within a period of 10 days hence taking all such grounds taken herein along with an application for condonation of delay and also with an application for interim protection. In the event of such filing, the Appellate Authority shall condone the delay and decide the appeal on its own merit.

5. In the meantime interim application at the instance of the petitioner shall be considered and disposed of at least within a period of one and half months from the date of its filing and involving the petitioner. In the event the petitioner has not been evicted from the disputed property in question as of now, there shall be status quo in respect of property vis-a-vis the petitioner at least till disposal of the interim application by the Appellate Authority.

(Biswanath Rath)
Judge