

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 9431 of 2022

Niranjan Sahoo

..... Petitioner

Mr. Jajati Keshari Khuntia, Advocate

-versus-

State of Odisha and others

.... Opp. Parties

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

02.05.2022

Order No.

1. This matter is taken up through Hybrid mode.
2. Petitioner in this writ petition prays for a direction to Tahasildar, Daringibadi-Opposite Party No.3 to settle Plot No.1921 under Khata No.369 to an extent of Ac.0.020 decimal, kism 'Patita' situated in mouza Daringibadi in the district of Kandhamal (for short, 'the case land') in his favour.
3. Mr. Khuntia, learned counsel for the Petitioner submits that the Petitioner by encroaching upon the case land, which is a government land has constructed his residential house and residing there since long. The same is also reflected in the ROR under Annexure-3. Although the nature of the case land is 'Patita', but describing it to be 'Nayanjori', a notice dated 7th March, 2022 (Annexure-2) has been issued by Tahasildar, Daringibadi to the Petitioner to appear and show cause. Thus, the Petitioner apprehends that his residential house may be demolished at any time and he may be evicted without following due procedure of law. Hence, this writ petition has been filed for the aforesaid relief.

4. Mr. Mishra, learned ASC on instruction submits that the Petitioner has no semblance of right to occupy a 'Nayanjori' kism of land. The case land is situated by the side of National Highway No.59. As such, the case land is highly objectionable and cannot be settled in the name of the Petitioner. This writ petition has been filed to circumvent the procedure initiated by the Tahasildar, Daringibadi for eviction of the Petitioner from the land in question. As such, the writ petition is not maintainable. The Petitioner has also suppressed the material fact of initiation and disposal of encroachment case against him. In that view of the matter, the writ petition is not maintainable and is liable to be dismissed.

5. Taking into consideration the contentions of learned counsel for the parties and in view of the fact that the Petitioner has been asked to show cause pursuant to notice under Annexure-2, this Court is not inclined to entertain the writ petition. However, Petitioner if so advised, may appear and put forth his grievance before Tahasildar, Daringibadi for consideration. In that event, the Tahasildar is expected to consider the same in accordance with law. Apprehension of the Petitioner for eviction is baseless, as the notice under Annexure-2 clearly discloses that if the Petitioner fails to appear and file show cause, necessary steps shall be taken in accordance with law. Thus, the writ petition merits no consideration and is disposed of with aforesaid observation.

Issue urgent certified copy of the order on proper application.

s.s.satapathy

(K.R. Mohapatra)
Judge