

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.9959 of 2022

Janaka Suta Dash

....

Petitioner(s)

Mr. A.K. Mishra,
Advocate

-versus-

State of Odisha & Ors.

....

Opposite Party(s)

Mr. R.K. Samal,
Standing Counsel for the S. & M.E. Deptt.

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
09.05.2022**

Order No.

02. 1. This matter is taken up through hybrid arrangement (Virtual / Physical Mode).
2. This is the 3rd round of litigation involving an eviction process undertaken by the public authority. It appears, in the first round of litigation the Court considering the submission of the Petitioner in disposal of the W.P.(C) No.34293 of 2021 permitted the Petitioner to withdraw the writ petition with liberty to approach the statutory authority for redressal of her grievance. There is no disclosure, if the Petitioner has undertaken such recourse or not? In the meantime the Petitioner moved another writ petition vide W.P.(C) No.38993 of 2021 making an allegation that there is an attempt of eviction of the Petitioner without following due process. It appears, while disposing of the writ petition vide W.P.(C) No.38993 of 2021 on 13.12.2021 a

Coordinate Bench of this Court directed the competent authority to follow process of law in the matter of eviction. It further appears, while disposing of the W.P.(C) No.38993 of 2021 this Court had also directed, in the event the Petitioner approaches the authority, she may be allowed with some time to stay in the disputed house. It appears, after disposal of the W.P.(C) No.38993 of 2021 since the Petitioner did not vacate the disputed premises in the meantime, the Petitioner has been provided with opportunity of hearing before taking action for eviction. There appears, there has been issuing of notices on 18.10.2021, 27.10.2021 & 28.10.2021 all are appearing at Annexures-2, 3 & 4 respectively.

3. From above notices this Court finds, there has been reference of W.P.(C) No.4796 of 2015 a P.I.L for clearing the encroachment. Even at this stage of the matter this Court since finds, all these orders are in possession of the Petitioner and the Petitioner has filed W.P.(C) No.38993 of 2021 in clear suppression of all these developments taking place in the meantime. If the Petitioner was already served with such notices and since W.P.(C) No.38993 of 2021 got disposed of on 13.12.2021, in all probability the Petitioner ought to have brought to the notice of the Court such notices before taking up of the order in W.P.(C) No.38993 of 2021. There appears, there has been moving of writ petition in clear suppression of fact and the materials. This Court also takes cognizance of serious suppression of fact by the Petitioner in not bringing the development through the above two writ petitions on her moving this writ petition itself and this Court warns the Petitioner for not committing any such mistake in future.

Be that as it may, keeping in view the direction in W.P.(C) No.38993 of 2021 this Court observes, even assuming the direction has been issued to the Petitioner to ask the competent authority to

accommodate her to occupy the house involved for at least some time, but the Petitioner nowhere discloses as to her asking the competent authority for accommodating her for some time. This writ petition is filed on 19.04.2022 almost five months after passing of the order in W.P.(C) No.38993 of 2021. This Court here takes note of the submission of Mr. Mishra, learned counsel for the Petitioner that the Petitioner is not only a retired Government School Teacher, but she is also in enjoyment of retiral dues further with continuance of pensionary benefits.

In the circumstance, this Court finds, the person with spending whole life as a Government School Teacher and in enjoyment of pension has no right to occupy the Government property unauthorizedly. It is for her good luck, there is no such proceeding for the illegal encroachment at least to affect her financial benefit. It is, at this point of time, Mr. Mishra, learned counsel for the Petitioner prays for six months' time to the Petitioner for clearing the encroachment and handing over the property to the State Authorities. This Court taking into account the observation of a Co-ordinate Bench in disposal of the W.P.(C) No.38993 of 2021 giving a concrete condition for accommodation of the Petitioner for some time after 13.12.2021, while permitting the Petitioner to vacate the disputed property involved within a period of three months hence, keeps the option of eviction open with the competent authority, in the event the Petitioner does not vacate the disputed premises after expiry of three months from today. It is also made clear that there will be working-out of this order subject to however the Petitioner's filing an affidavit along with a copy of this order before the Deputy Collector undertaking therein that she will vacate the disputed premises involving the notices at Annexures-2, 3 & 4 within a period of three months from today. In the event the

Petitioner violates the condition made in this order, it would be open to the competent authority to evict the Petitioner.

4. The writ petition stands disposed of with the above order.

5. For the Petitioner moving this Court in suppression of judicial order in her own moving writ petition, this Court directs for supply of free copy of this order to Mr. R.K. Samal, learned Standing Counsel for informing the Competent Authority about the order of this Court.

(Biswanath Rath)
Judge

Ayaskanta Jena

