

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.10106 of 2022

Sabita Raypitam & Anr.

....

Petitioner(s)

Mr.P.K.Pasayat,
Advocate

-versus-

State of Odisha & Ors.

....

Opposite Party(s)

Mr.R.P.Mohapatra,
AGA

CORAM:
JUSTICE BISWANATH RATH

ORDER
26.04.2022

Order No.

01. 1. Heard the submissions of learned counsel appearing for the petitioners.
2. Referring to averments in Paragraphs-8, 9 and 10 in the writ petition, there is allegation that in spite of petitioners filing an application for settlement of land under Section 8-A of the OPLE Act, the Tahasildar in non-consideration of such application has come to dispose of the OPLE proceeding bearing Encroachment Case No. 21 of 2021-2022 and in the meantime there is communication to the petitioners for vacating the land under encroachment by communication dated 29.03.2022 vide Annexure-4. Learned counsel appearing for the petitioners submits that for there is illegal disposal, the writ petition should be entertained.
3. Learned State Counsel however submits that for the petitioners having a statutory remedy of appeal and all grounds raised here can very well considered by the Appellate Authority, the writ petition

should not be a remedy at this stage. In the circumstance learned State Counsel opposes the entertaining the writ application.

4. Considering the rival contentions of the parties, this Court finds, undisputedly petitioners have a statutory remedy of appeal. Further this Court also finds substance in the submission of the learned State Counsel that whatever grounds raised herein can very well be agitated in the memorandum of appeal and can very well be decided by the Appellate Authority. In the circumstance and for the petitioners having clear statutory appeal remedy, this Court finds the writ petition becomes premature at this stage. Deciding the writ petition as premature this Court however grants liberty to the petitioners to approach the Appellate Authority at least within a period of two months from today appending a certified copy of this order along with an application for condonation of delay and also an interim application. In such event delay shall be condoned for the petitioners wrongly pursuing the writ remedy and appeal shall be heard on its own merit involving the petitioners and also considering the allegation of non-consideration of the 8-A application is pending. If the petitioner is in possession of the disputed land as on date, there shall be status quo in respect of the disputed property by the petitioners as well as Public Authority till a period of one and half months within which period the interim application shall be disposed of.

5. With this observations, the writ petition stands disposed of.

(Biswanath Rath)
Judge