

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.615 of 2022

Shishir Kumar Samal ***Appellant***

Mr. Gokulananda Sahu, Advocate

-versus-

State of Orissa and Others ***Respondents***

Mr. L. Samantaray, AGA

CORAM:

JUSTICE JASWANT SINGH

JUSTICE M.S. RAMAN

ORDER (Oral)

16.05.2022

Order No.

- 02.** 1. This matter is taken up by virtual/physical mode.
2. The Petitioner claims himself to be the sole legal heir of the recorded tenant-late Jogendra Samal of Plot No.2533/2891 of Khata No.802/10, Mouza-Niali, Tahasil-Darpan, in the district of Jajpur.
3. The Petitioner appears to have raised a resistance to the laying down of a pipeline at 1.2 meters below the surface under the Mega Lift Project by the authorities concerned on the ground that the kisan gharabari (homestead) of 25% of the total area contains a construction whereas the stand of the authority that is a vacant land and would not hamper the agricultural plantation. The writ petition bearing W.P.(C) No.41622 of 2021 was filed by the Petitioner seeking to restrain the authorities, which has been disposed of by the learned Single Judge vide the impugned order dated 02.02.2022 relegating the Petitioner to

approach the Civil Court for appropriate remedy in view of the disputed questions of facts.

4. The present intra-court appeal is directed against the aforesaid order dated 02.02.2022 with the argument that the procedure provided for in the notification dated 25.08.2015 (Annexure-7) was not complied with by the irrigation authorities while undertaking to lay down the pipeline.

5. Mr. Samantaray was directed to verify as to whether the notification dated 25.08.2015 i.e. the Odisha Underground Pipelines Cable and Duct (Acquisition of Right of User in Land) Bill, 2015 providing for the said procedure was ever passed by the Legislative Assembly to become an enactment or not.

6. At the time of hearing, Mr. Samantaray submits that the aforesaid Bill was never passed and in fact has lapsed on the expiry of the term of the previous Legislative Assembly.

7. In view of the above, we find no legal infirmity in the order passed by the learned Single Judge. Hence, the Writ Appeal stands dismissed.

(Jaswant Singh)
Judge

(M. S. Raman)
Judge

May 16th, 2022
Cuttack