

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.12765 of 2020

Mohan Pradhan & Anr.

....

Petitioner(s)

Mr.P.Mukherji, Sr.Adv.

-versus-

State of Odisha and others

....

Opposite Party(s)

Mr.U.K.Sahoo, ASC

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
17.11.2022**

Order No.

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1. Heard Mr.Mukherji, learned senior counsel assisted by Mr. Amlan Mishra, Advocate for the petitioners and Mr. Sahoo, learned Additional Standing Counsel for the State.
2. This writ petition involves a challenge to the order at Annexure-1. Reading through the grounds stated in paragraphs-8 and 9 of the writ petition, it appears an attempt has been made to bye-pass the appellate provision and ascertainment of right through a writ petition in bye-passing of appeal provision on three grounds i.e. (i) the order was passed not in open court (ii) not even giving information to the party concerned and (iii) petitioners could not be able to know the effect of the order for long time appearing to be in satisfying the court to come with inordinate delay. Paragraph-8 of the writ petition also involves a ground that the impugned order is palpable illegal. Recording to the grounds referred in paragraphs-9 and 10 of the writ petition, it has been claimed that the same authority while passing similar orders in respect of other particular persons or land of adjacent owner has passed the order contrary to his own order in similar meaning thereby the authority adopting discriminatory attitude.

3. Considering the grounds raised, in entertaining the writ petition reading through the provision contained in Section 51(1) of the Orissa Land Reforms Act, 1960, this Court finds the provision reads as follows.

“58Appeal-(1) Any person aggrieved by an order passed under any of the following sections may prefer an appeal to the prescribed authority namely:

Sections 4[8-A], 9 (4), 10, 12, (2), 15, 16, 17, 18, 19,(1),(c), 20, 21, 22, (1), [22-A (5), 23(2), 23-A] 27, 28,[34-A, 35], [36-A], [36-C, 42], [45-B(1), [52, 55-A, 56-B and 57-B(4)]”.

4. All the grounds raised herein very well can be raised in the appeal. For a statutory remedy of appeal authorizing the appellate authority to consider all such grounds, this Court finds no ground to entertain the writ petition in bye-passing the statutory remedy of appeal.

5. In the circumstance, this Court declines to entertain the writ petition in bye-passing of the statutory remedy. For *bona fide* moving to this Court, this Court permits the petitioners to prefer an appeal at least within a period of ten days hence. Grounds urged herein if urged in the appeal, the appellate authority shall remain duty bound to answer all such issues.

6. Original certified copy of Anenxure-1 be returned to learned counsel appearing for the petitioners on substitution of Xerox copy thereof.

7. With this observation, the writ petition stands disposed of.

(Biswanath Rath)
Judge