

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) NO.11895 OF 2022

Banamali Swain

....

Petitioner

Mr.S.Mohanty, Adv.

-versus-

State of Odisha & ors.

....

Opposite Party(s)

Mr.U.K.Sahoo, ASC

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
20.7.2022**

Order No.

02.

1. Heard learned counsel for the Parties.
2. Even though the Writ Petition is filed seeking a Writ of Mandamus for working out the order at Annexure-3 for the provision in the OPLE Act, this Court finds, the Collector, Jajpur should not have undertaken the exercise of the Tahasildar, Sukinda while the matter has to be decided by the Tahasildar under the provision of the OPLE Act, as the Collector in such event, the Revisional Authority. This Court makes it clear that under the provision of the OPLE Act, the Collector holds the revisional power even assuming there is a direction by this Court in disposal of the earlier Writ Petition being W.P.(C) No.20923 of 2019 directing the Collector to consider the pending representation of the Petitioner in the worse, the Collector in considering the representation should

have remitted the matter to the Tahasildar in exercising his original power. In the circumstance, this Court finds, there is illegal exercise of power by the Collector.

3. While declining to issue a Writ of Mandamus involving the order at Annexure-3, considering the request of the learned counsel for the Petitioner to approach the Tahasildar, Sukinda for an exercise under the provision of the OPLE Act. This Court observes, in the event the Petitioner makes a complain to the Tahasildar, Sukinda, O.P.4 for removal of encroachment within two weeks, the Tahasildar shall do well in undertaking an exercise under the provision of the OPLE Act and taking decision, as lawful, also involving the parties likely to be affected and concluding such proceeding at least within a period of three months from the date of filing such application.

4. The Writ Petition thus stands disposed of.

(Biswanath Rath)
Judge

M.K.Rout