

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No.10151 of 2019

Srimantini Behera

.....

Petitioner

Mr. S. Satapathy, Advocate

Vs.

State of Odisha & Others

.....

Opposite Parties

Mr. H.M. Dhal, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE B.P. SATAPATHY

ORDER

22.11.2022

Order No.

12

This matter is taken up through hybrid mode.

2. Heard Mr. S. Satapathy, learned counsel appearing for the petitioner and Mr. H.M. Dhal, learned Additional Government Advocate appearing for the State-opposite parties.

3. The petitioner has filed this writ petition seeking direction to opposite parties no.3 to 5 to take appropriate action for payment of due compensation to the petitioner for acquiring land of an area measuring 1.5 acres out of the case land needed for Rengali Right Canal System under the provisions of Land Acquisition Act within a stipulated period.

4. Mr. S. Satapathy, learned counsel appearing for the petitioner contended that the land of the petitioner was forcibly occupied by opposite parties no.3 to 5 over an area of 1.5 acre out of Plot No.971/1546 measuring total area Ac.4.900 decimals bearing Khata No.355/389 located in village-Kochila

Nuagaon under Choudwar Police Station in the district of Cuttack. It is further contended that the land of the petitioner has been acquired without following due procedure of Land Acquisition Act and Rules, and the petitioner has not been paid necessary compensation for such forcible acquisition of land by the opposite parties. Even though the petitioner had approached the authority time and again, nothing has been placed on record to indicate whether any notice under Sections 4(1) and 6(1) of the Land Acquisition Act was issued or not. But without issuing any notice, the same has been utilized for the purpose of Rengali Right Canal. Thereby, the petitioner is grossly affected. Due to inaction of the authority, the petitioner has approached this Court by filing this writ petition on 07.06.2019.

5. Mr. H.M Dhal, learned Additional Government Advocate appearing for the State-opposite parties seeks time to file counter affidavit.

6. Considering the contentions raised by learned counsel for the parties and after going through the records, it appears that this Court, vide order dated 13.12.2019 called upon learned Additional Government Advocate to obtain instructions or file counter affidavit whether the land of the petitioner appertaining to Plot No.971/1546 under Khata No.355/389 of Mouza-Kochila Nuagaon under Tangi-Choudwar Tahasil in the district of Cuttack measuring an area of Ac.4.900 has been utilized for construction of Rengali Right Canal system. When the case was listed on 09.01.2020 and 18.02.2020, learned Additional Government Advocate sought

time to obtain instructions or file counter affidavit. Thereafter, the case was listed on 03.03.2020 and on that date learned Additional Government Advocate stated that he had received para-wise comments and sought time to file counter affidavit. Accordingly, time was granted till 17.03.2020. Again on 17.03.2020, learned Additional Government Advocate sought time to file counter affidavit. When the case was listed on 12.10.2022, again learned State Counsel sought a short adjournment and accordingly, the matter was directed to be listed on 01.11.2022. On 01.11.2022, learned Additional Government Advocate again sought time to comply with the order dated 12.10.2022 and accordingly, this Court granted two weeks time to file counter affidavit, but no counter affidavit is forthcoming. When the matter is listed today and this Court wanted to call upon the Secretary, Revenue & Disaster Management, Govt. of Odisha to file show-cause as to why has he not supplied instructions to the learned Additional Government Advocate, at this point of time, learned Additional Government Advocate sought further adjournment.

7. Therefore, this Court is not inclined to grant further adjournment and disposes of the matter on the basis of the materials available on record. Accordingly, this Court directs the opposite parties to pay compensation to the petitioner for forcible occupation of 1.5 acre of land for construction of Rengali Right Canal as early as possible preferably within a period of four weeks from today. If compensation is not paid within the time stipulated, it is open to the petitioner to apprise

this court by filing appropriate application so that action will be taken against the opposite parties.

8. Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

Alok

(B. P. SATAPATHY)
JUDGE

