

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.12185 of 2022

Partha Sarathi Sethi

....

Petitioner(s)

Mr. S.K. Dash,
Advocate

-versus-

State of Odisha & Ors.

....

Opposite Parties

Mr. S.P. Panda,
Addl. Govt. Adv.

CORAM:

JUSTICE BISWANATH RATH

ORDER

12.05.2022

Order No.

1. 1. Undisputedly the Petitioner has already filed appeal vide Encroachment Appeal No.5/2022. This writ petition involves many fold allegations relating to the manner of disposal of the encroachment case. It is also alleged that in spite of asking of the Petitioner for the detailed order sheet through the application at Annexure-4 to enable him to file appeal with appropriate ground, there has been no supply of detailed order sheet as of now compelling the Petitioner to file appeal at Annexure-5 only on the basis of Form-Kha communicated to him. It is further alleged that even there was no numbering of the appeal filed since 26.04.2022, the Petitioner has been served with notice of eviction on 5.05.2022 compelling him to file interim application on 10.05.2022. However, on filing of the interim application though there has been numbering of the appeal, but the appeal is not being taken up as of now.

It is, in the circumstance, learned counsel for the Petitioner alleged that in spite of request of the Petitioner for passing interim order, the same has not been attended to as of now and the Additional Tahasildar, Sadar Cuttack is bent upon to evict the Petitioner forcefully even in spite of pendency of the statutory appeal.

2. Considering that the appeal at the instance of the Petitioner is still pending, this Court is of the view that a statutory appeal needs to be decided in accordance with law and once the appeal is not decided finally, there should not be eviction of the Petitioner. Keeping in view the availability of statutory appeal remedy, this Court while directing for disposal of the Encroachment Appeal No.5 of 2022 at least within a period of ten weeks from the date of appearance of the Petitioner, also observes, the notice of eviction dated 5.05.2022 at page 34 of the brief shall remain stayed and will be operationalized dependent on the outcome in the proceedings in exercise of provision under the OPLE Act.

3. Petitioner is directed to appear before the appellate authority along with a copy of the order and obtain the date of hearing of the appeal.

4. The writ petition stands disposed of with the above direction.

5. Free copy of this order be handed over to Mr. S.P. Panda, learned State Counsel for necessary communication.

(Biswanath Rath)
Judge