

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C)No.10502 of 2019

(Through Hybrid mode)

Rastriya Gramanchal Seba Samiti ***Petitioner***

Mr. S. D. Das, Senior Advocate

-versus-

State of Orissa and another ***Opposite Parties***

Mr. P. C. Panda, Addl. Govt. Advocate (for O.P. no.1)

Mr. S. B. Panda, Advocate (for O.P. no.2)

Mr. M. Mohanty, Advocate (for O.P. no.3)

Mr. S. S. Kashyap, Advocate (for O.P. no.4)

CORAM: JUSTICE ARINDAM SINHA

ORDER

09.05.2022

Order No.

08.

1. Mr. Das, learned senior advocate appears on behalf of petitioner and submits, private opposite party obtained the plan by misrepresenting dimensions of his land. Furthermore, construction commenced by him was not in conformity with the purported plan. He draws attention to annexure-10 being memo dated 13th May, 2019 issued by the Trust to private opposite party seeking clarification regarding detailed dimensions of revenue plots mentioned therein. He further refers to memo dated 1st June, 2013 issued by Executive Officer of the Municipality to private opposite party directing stop-work on the construction.

2. Mr. Kashyap, learned advocate appears on behalf of private opposite party and submits, a civil suit is pending between petitioner and his client. In the circumstances there

being disputed questions of fact, the writ Court should not interfere as parties can find their remedies in the civil Court.

3. Mr. Mohanty draws attention to disclosure in his client's counter filed in WP(C) no.26393 of 2019 being order dated 31st October, 2019, whereby private opposite party was informed that the building, as constructed, is not in accordance with law.

4. On query from Court Mr. S.B. Panda submits, section 273-A in Orissa Municipal Act, 1950 is the provision, under which the Executive Officer can issue a provisional order for demolition requiring the person responsible to show cause, failing which direct the demolition.

5. Pendency of the civil suit is for purpose of ascertaining the facts pertaining to civil rights and liabilities of the parties. Here the question is of statutory violation. The Trust has detected discrepancy in the matter of sanction of the plan. The stop-work notice stands issued by the Municipality. In the circumstances, opposite party no.2 (Municipality) is directed to initiate proceeding under section 273-A and bring it to conclusion within eight weeks of communication. In conducting the proceeding said opposite party will notice petitioner.

6. The writ petition is disposed of.

(Arindam Sinha)
Judge

RKS