

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.8643 of 2011

AND

CONTR No.56 of 2002

Nayana Pradhan

....

Petitioner

Mr. Ashok Mohanty, Senior Advocate

-versus-

Balasore Municipality, represented by

....

Opposite Parties

The Executive Officer and others

(In WP(C) No.8643 of 2011)

Executive Engineer, Balasore

Municipality and others

(In CONTR No.56 of 2002)

Mr. S.B. Jena, Advocate

Mr. Partha Mukherjee, Advocate

CORAM:

THE CHIEF JUSTICE

JUSTICE CHITTARANJAN DASH

ORDER

17.10.2022

Order No.

04.

1. This is the third round of litigation concerning the Petitioner's grievance about construction of shop rooms over a public drain by the Balasore Municipality. The grievance is that the construction was unauthorized and ought to have been removed.

2. Initially, the Petitioner had filed writ petition being O.J.C. No.8726 of 2001, which was disposed of on 4th October, 2001 recording an assurance of learned counsel appearing for the

Municipality that there would be no construction over the public drain. When the said assurance was not adhered to, contempt case being CONTR No.56 of 2002 was filed, in which, a report was called for from the Tahasildar. Pursuant thereto, on 11th December 2003, the Tahasildar submitted a report confirming the construction of the shopping complex and further stating that the Tahasildar had not given any express permission for the same. However, it was stated that the width of the drain is 4.10" and there is a concrete slab and there is no permanent construction over the existing drain. It is stated that the shopping complex was constructed during the year 1992-94 in two blocks occupying an area of 0.22 dec and that there is a gap between two shopping complexes.

3. Considering that the shopping complex has been in existence for almost thirty years now, the Court is not inclined at this stage to issue any further directions in the matter. The Municipality will ensure that the drain is not obstructed in any manner because of the existence of the shopping complex.

4. With the above observations, the writ petition and the contempt petitions accordingly disposed of.

(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge