

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 13619 OF 2022

Sri Sushanta Kumar Jena ***Petitioner***

Mr. Bibekananda Bhuyan, Advocate

-versus-

State of Odisha and others ***Opp. Parties***

Mr. R.P. Mohapatra,

Additional Government Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

10.06.2022

Order No.

01. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition seeks to assail the notice/order of eviction dated 29th March, 2022 (Annexure-5) issued by the Additional Tahasildar, Bari-Opposite Party No.3 in Encroachment Case No. 4/285 of 2021.
3. In course of hearing, Mr. Bhuyan, learned counsel for the Petitioner submits that interest of justice will be best served if the Petitioner is given liberty to file appeal against the notice/order of eviction as at Annexure-5. Further, he prays for a direction to protect her possession over the land in question till disposal of such appeal.
4. Mr. Mohapatra, learned Additional Government Advocate submits that the Petitioner has remedy of appeal under the provisions of Orissa Prevention of Land Encroachment Act, 1972 (for short, 'OPLE Act'). As such, the writ petition is not maintainable.
5. Taking into consideration the submissions of learned counsel for the parties, this Court without expressing any

opinion on the merit of the case of Petitioner disposes of this writ petition with the observation that in the event the Petitioner files an appeal under Section 12(1) of the OPLE Act, 1972 within a period of two weeks hence, the same shall be considered in accordance with law giving opportunity of hearing to the parties concerned. In order to enable the Petitioner to move the appellate authority for condonation of delay in filing the appeal, if any and for interim protection, the notice/order of eviction issued under Annexure-5 passed in Encroachment Case No. 4/285 of 2021 shall be kept in abeyance for a period of four weeks, if the same has not yet been given effect to.

6. Learned counsel for the Petitioner undertakes to serve a copy of the writ petition along with certified copy of this order on learned State Counsel for communication.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Vacation Judge