

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 14147 OF 2022

Upan @ Rupan Behera

Petitioner

Mr. Biplab P.B. Bahali,
Advocate

-versus-

State of Odisha and others

.... Opp. Parties

Mr. S.P. Babu,
Additional Government Advocate

**CORAM:
JUSTICE K.R. MOHAPATRA**

**ORDER
07.06.2022**

Order No.

01. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this Writ Petition prays for a direction to settle a piece of Government Land in Plot No.1093/1302 to an extent of Ac.0.02 decimals out of total extent of Ac.0.15 decimals under Khata No.199 situated in Mouza Kunja under Kakatpur Tahasil in the district of Puri in his name.
3. Mr. Bahali, learned counsel for the Petitioner submits that the Petitioner being a landless person is occupying the aforesaid piece of government land since long. In view of such possession, Encroachment Case No.10 of 2022 has been initiated against him by the Tahasildar, Kakatpur. The Petitioner has already entered appearance in the said Encroachment case. It is his submission that the Petitioner being a landless person and is occupying the Government land in question since more than the statutory period, he has right to be settled with the same, provided that he makes an application to that effect before the Tahasildar, Kakatpur in the aforesaid encroachment case. As the rainy season is approaching,

he is making construction over the Government land in question. But the Tahasildar, Kakatpur has issued notice in Form “GA” under Annexure-3 asking him not to make any construction over the same. Thus, finding no other alternative, the Petitioner has filed this writ petition for the aforesaid relief.

4. Mr. Babu, learned Additional Government Advocate submits that from the averments made in the writ petition and the submission of learned counsel for the Petitioner, it appears that the Petitioner has not yet made any application before the Tahasildar, Kakatpur for settlement of the aforesaid piece of Government land. If such an application is filed, the same will be considered in accordance with law.

5. Since the Petitioner has admittedly encroached upon a valuable piece of Government land, no permission for construction over the Government land can be granted at this stage.

6. Taking into consideration the rival contentions of the parties, this Court disposes of this writ petition with an observation that if the Petitioner makes an application under Section 7 read with Section 8(A) of the Odisha Prevention of Land Encroachment Act, 1972 for settlement of the aforesaid piece of Government land, the same may be considered in accordance with law giving opportunity of hearing to the parties concerned. It is, however, made clear that the Petitioner cannot be permitted to make any construction over the same during pendency of the Encroachment Case No. 10 of 2022, which is stated to be pending before the Tahasildar, Kakatpur.

7. At this stage, Mr. Bahali, learned counsel for the Petitioner prays for grant of an order of status quo with regard to possession

over the Government land in question. But taking into consideration his submission that no final order has yet been passed in the encroachment case, such a prayer is misconceived.

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

(K.R. Mohapatra)
Vacation Judge

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