IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) NO.15736 OF 2015

Dinakrushna Baliarsingh .... ***Petitioner***

Mr.J.Pal, Adv.

-versus-

State of Odisha &ors. .... ***Opposite Party(s)***

Mr.S.P.Panda, AGA

CORAM:
JUSTICE BISWANATH RATH

ORDER
23.8.2022

Order No.

07. 1. Heard learned counsel for the Parties.

2. The order at Annexure-5 has been challenged solely on the premises that the Petitioner's right created through lease over the disputed property has been taken away in a litigation process without providing natural justice.

3. Learned counsel for the Petitioner taking this Court to the grounds taken in the Writ Petition contended that the vendor of the Petitioner obtained a valid lease and while is in possession of the property transferred in favour of the Petitioner. It is alleged that since the vendor has not taken any step to protect the leasehold property, in order to protect the interest of the present Petitioner, the

subsequent purchaser, there should not have been finality of such issue without affording opportunity to the Party in possession.

4. Mr.S.P.Panda, learned Additional Government Advocate in his opposition contended that there is no plea that the vendor is not taking any step to protect the interest of the Petitioner. There is no material available on Record even by way of pleading that the Vendor did not get opportunity of hearing and the subsequent purchaser, the Petitioner has no right as he simply steps into the shoe of the Vendor, who was the actually Owner.

5. Considering the rival contentions of the Parties and on perusal of the entire pleading, this Court finds, the subsequent purchaser has requested the Vendor to protect his right so as to protect the right of the Petitioner. There is no dispute with regard to the settled position of law that the subsequent purchaser's right passed through the Vendor's right. The Vendor since is not showing interest, as alleged by the Petitioner, the Petitioner cannot be deprived of his right to protect the property presently in his possession. For a valuable right involved herein taking away the property right of a person, this Court finds, there should have been general publication inviting objection from interested Parties. The subsequent Purchaser since is interested Party and to suffer on

account of the impugned order, he should have been provided with opportunity of hearing before taking such drastic decision.

6. Keeping the above in view, this Court interferes with the impugned order at Annexure-5 and remits the proceeding to the Competent Authority to decide Rent Objection Case No.7352/6581 of 2013 afresh but however involving the Petitioner herein. Since the matter is decided on contest of the Petitioner, the subsequent purchaser, he is directed to appear before the Competent Authority along with a copy of this order on 7th September, 2022 with objection and material documents, if any, to support his claim as well as the Vendor's right over the property. There would be fresh adjudication of the dispute involving the Petitioner at least within a period of three months from the date of appearance of the Petitioner.

7. With the above order, the Writ Petition stands disposed of.

(Biswanath Rath)
Judge

M.K.Rout