

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.14397 of 2022

Santilata Rout

....

Petitioner(s)

Mr. A.Ch. Behera,
Advocate

-versus-

State of Odisha & Ors.

....

Opposite Party(s)

Mr. S.P. Panda,
Addl. Govt. Adv.

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
11.07.2022**

Order No.

04.

1.

This writ petition involves the following prayer:-

“Therefore, it is respectfully prayed that this Hon’ble court may graciously be pleased to admit this writ petition, issue rule Nisi for calling upon the Op-parties opp. parties for show cause as to why the impugned order will not be vacated. This Hon’ble court be pleased to make its rule absolute if the said opp. parties fail to submit sufficient cause or show insufficient cause and after hearing from the parties this Hon’ble court may direct the following directions in the writ of mandamus;

- a. To direct to the Collector, Bhadrak and Sub-Collector, Bhadrak to make an appropriate enquiry through their sub-ordinate officers and settle the encroached land in favour of the petitioner by setting aside the order dtd.18.05.2022.
- b. To direct to the Tahasildar, Bhadrak not to take any coercive action against the petitioner till finalization of this writ petition.

- c. To direct any other directions or pass any suitable order or pass any writ / writs as this Hon'ble Court may deem fit just and proper for the interests of justice and equity.”

2. Even though the Petitioner has filed affidavit in terms of the earlier direction of this Court in an attempt to establish her as a person eligible and entitled to a land under the schemes of the Government, but however, Mr. Panda, learned State Counsel submitted through the instruction received in the meantime, which reads as follows:-

“In this connection an inquiry has been conducted by the Revenue Inspector, Charampa to trace out the property details of the petitioner. The Revenue Inspector concerned has submitted the inquiry report from which it is revealed that encroacher Smt. Santilata Rout W/o-Umakanta Rout at present Vill-Erein is migrated one, and originally her in-laws are belonging to vill-Nalgunda coming under Chandabali Tahasil. A piece of land measuring an area of Ac0.08 dec. under khata No.753 of Mouza-Erein was her paternal property which has already been sold and the petitioner has enjoyed her share from the sale value of the land. The petitioner has been staying over the land in question with her Two capable Sons in sound economical condition under a building house. As per RI Report the approximate value of their assets is Rs.600000/- (Rupees Six lakh) only and their family annual income from business is Rs. 200000/- (Rupees Two lakh) only. Besides this, the property report at her in laws native has been sought from the Tahasildar Chandabali vide this office letter No.2662 on dated 08/07/2022 which is still waited. On Inquiry of the RI concerned no other land property is found under the jurisdiction of RI Circle Charampa. **(Annexure-I)** Besides this, the property report at her in laws native has been sought from the Tahasildar Chandabali vie this office letter No. 2662 on dated 08/07/2022 which is still waited. **(Annexure-II)**

It is pertinent to state that in relation to the same matter one Laxmipriya Panda W/o.-Deepak Kumar Samataray of Vill.- Erein had filed the Writ petition No.5456/2018 with a representation to direct the

collector Bhadrak for eviction of the same encroachment. On the basis of the order passed on Dt. 10/04/2018 in WP (C) no.5456/2018, the collector Bhadrak has been pleased and passed an order on Dt. 23/07/2018 vide Misc. case no.20/2018 where in the Tahasildar, Bhadrak has been directed to evict the same illegal occupation of the instant petitioner. Further it is submitted that Smt. Laxmipriya Panda has also filed another Writ bearing WP (C) No.6771/2019 seeking the order to implement the order passed by the Collector Bhadrak in Misc. Case No.20/2018 arising out of WP (C) No.5456 / 2018.

Keeping view of the above facts and circumstances Tahasildar, Bhadrak is in opinion and humbly submitted to your Honor that at first the encroached land most valuable which is coming under Town Planning Area. Secondly in the point of view of Annual Family Income Which is Rs. 200000/- (as per RI report) , the petitioner is not eligible for Settlement of Govt. Land in her favour. In this regard the latest guideline received from Govt., in Revenue and Disaster Management vide letter No. 30918 Dt. 21/08/2018 says that the annual family income of a beneficiary under OGLS Act should be less than Rs. 60,000/- (Rupees Sixty Thousand) only (**Annexure-III**). Thirdly public objection is there when Laxmipriya Panda W/o- Deepak Kumar Samatray of Vill- Erein has already filed Writ Petitions before Hon'ble High Court of Orissa vide WP(C) No.5456/2018 and 6471/2019 against such illegal encroachment.”

3. Reading the aforesaid instruction of the competent authority this Court finds, for the income of the family members of the lady involved herein i.e. the Petitioner, she cannot be construed to be a destitute so as to avail free land in terms of the provision under the OGLS Act or under the OPLE Act or in any other scheme available for the purpose.

4. In the circumstance this Court finds no scope to consider the claim of the Petitioner in the writ petition.

5. The writ petition is accordingly dismissed.

(Biswanath Rath)
Judge

Ayaskanta Jena

