

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.14456 OF 2022

Padama Behera

....

Petitioner(s)
Mr.S.K.Dash,
Advocate

-versus-

State of Odisha and others

....

Opposite Party(s)
Mr.S.Mishra,
ASC

CORAM:
JUSTICE BISWANATH RATH

ORDER
03.08.2022

Order No.

02.

1. Heard learned counsel for the Parties.
2. The Writ Petition involves issuing notice involving Encroachment Case No.4-1219 of 2022 asking the Petitioner to appear personally or through authorized agent on 25.05.2022 and show cause as to why he should not be proceeded against under Sections 4 & 6 of the Odisha Prevention of Land Encroachment Act, 1972. Taking to the ground raised herein, Petitioner challenges issuing such notice on the ground of jurisdiction and competency with the Tahasildar, Muniguda.
3. Mr.Mishra, learned Additional Standing Counsel objects entertainability of the Writ Petition on the premises that even assuming the Petitioner has a ground on maintainability of such proceeding, nothing prevented the Petitioner to raise such ground for consideration of the Tahasildar, Muniguda or even any appeal in challenge to such order but in no circumstance the Writ Petition will be entertained.

4. Taking this Court to the objection of the Petitioner under Annexure-12, at page-30 of the brief, this Court records the submission of Mr. Dash, learned counsel for the Petitioner that the Encroachment Case No.4-1219 of 2022 involved herein is still pending.

5. This Court observes in the event the encroachment case is still pending, the Tahasildar becomes duty bound in taking into account the question of jurisdiction being raised by the Petitioner and in the event answer is positive to drop the proceeding. In the event the answer is negative, he may proceed to finalise the dispute involved therein.

6. With this observation, this matter is remitted back to the Tahasildar to consider the question raised herein before proceeding to finalize the proceeding involved herein. This order will be however giving effect, in the event the Encroachment Case No.4-1219 of 2022 is still pending.

(Biswanath Rath)
Judge

Swarna