

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 14551 of 2022

Rajkishore Behera and others

Petitioners

Mr. S.R. Subudhi, Advocate

Vs.

*Commissioner-cum-Secretary,
Bhubaneswar and others*

Opposite Parties

Mr. A.K. Mishra, AGA;

Mr. P.K. Singhdeo, Advocate

(O.Ps.4 & 5);

Mr. P. Mohanty, Advocate (O.P.7) &

Mr. B.P. Pradhan, Advocate

(intervener)

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

14.09.2022

Order No.
01.

This matter is taken up through hybrid mode.

2. Heard Mr. S.R. Subudhi, learned Counsel for the petitioners, Mr. A.K. Mishra, learned Additional Government Advocate, Mr. P.K. Singhdeo, learned Counsel appearing for the Opposite Party nos. 4 and 5, Mr. Pranaya Mohanty, learned counsel appearing for the opposite party no.7 and Mr. B.P. Pradhan, learned counsel for the intervener.

3. The petitioners have filed this writ petition seeking direction to the opposite parties 2, 4 and 7 not to evict them from Kalaraput Basti until they are rehabilitated by the opposite parties.

3. Mr. S.R. Subudhi, learned Counsel for the petitioners contended that the petitioners are the dwellers of Kalaraput Basti and residing there for more than a decade. They are selected under Rajib Awas Yojana scheme and are issued with certificates to that

effect. However in the year 2022 without resettling them, the opposite party nos.3 and 4 are trying to evict them without giving them any notice. Therefore, they have approached this Court by filing the present writ petition.

4. Mr. A.K. Mishra, learned Additional Government Advocate contended that the petitioners have not indicated with regard to extent of land occupied by them and they and also not provided any information with regard to the extent of land where they have constructed their house and are dwelling for last 20 years. More so, the said land has already been handed over to IDCO for better infrastructure development and in turn, the IDCO has handed over the land in favour of the intervener-Blue Circle Monitors Private Limited. But due to unauthorized occupation by the present petitioners, the intervener could not take possession of the same.

5. Mr. P.K. Singhdeo, learned Counsel appearing for the Opposite Party nos. 4 and 5 contended that pursuant to the order passed by this Court dated 17.06.2022, they have sought for instruction and accordingly contended that they have nothing to do with the eviction process, save and except it is done by the Bhubaneswar Municipal Corporation.

6. Mr. Pranaya Mohanty, learned counsel appearing for the opposite party no.7 contended that after acquisition of the land from the Government, the same has been allotted in favour of the intervener. But the same could not have been handed over to the intervener because of the unauthorized occupation made by the petitioners.

7. Though BMC has been made as a party in the case, but no

notice has been issued by this Court. Therefore, none has entered appearance on behalf of such opposite parties. This Court had passed a status quo order on 17.06.2022 while seeking instruction from the learned counsel appearing for the BDA. I.A. No. 9750/2012 has also been filed by the intervener seeking for vacation of the interim order dated 17.06.2022.

8. Having heard learned counsel for the parties and after going through the records, it appears that in apprehension of eviction, the petitioners have approached this Court in the present writ petition. As such, the petitioners have not indicated the extent of land over which they are in occupation, save and except it has been stated that they have selected under Rajib Awas Yojana Scheme and they have been granted certificate to that effect. Therefore it is contended that being the beneficiaries of Rajib Awas Yojana Scheme, unless such benefit is not extended to them, they should not be evicted from the place where they are now in occupation. But fact remains that the petitioners are in unauthorized occupation of the land and as such if any action will be taken for eviction of unauthorized occupants, the authority has to follow due procedure of law. Thereby without following due procedure of law, the petitioners cannot be and should not be evicted by the opposite parties.

9. In that view of the matter, since the writ petition became premature one, this Court is not inclined to entertain the same.

10. The writ petition stands disposed of accordingly. Interim order passed earlier stands vacated.

(DR. B.R. SARANGI)
JUDGE

Arun