

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 14638 of 2022

Chandan Mohanty

Petitioner
....
Mr. Abhijit Das, Advocate

-versus-

State of Odisha and others

Opp. Parties
....
Mr. G.N.Rout,
Additional Standing Counsel

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

ORDER

10.06.2022

Order No.

01.

1. This matter is taken up through hybrid mode.
2. This matter was not in today's cause list. On being mentioned, the same is taken up through special list.
3. Petitioner, in this writ petition, seeks to assail the notice/order of eviction dated 3rd May, 2022 (Annexure-2) issued by the Tahasildar, Marshaghai-Opposite Party No.4 in Encroachment Case No.4-258 of 2022.
4. In course of hearing, learned counsel for the Petitioner submits that interest of justice will be best served if the Petitioner is given liberty to file appeal against the notice /order of eviction as at Annexure-2. Further, he prays for a direction to protect his possession over the land in question till disposal of such appeal.
5. Mr. Rout, learned ASC submits that the Petitioner has remedy of appeal under the provisions of Orissa Prevention of

Land Encroachment Act, 1972 (for short, 'OPLE Act'). As such, the writ petition is not maintainable.

6. Taking into consideration the submissions of learned counsel for the parties, this Court, without expressing any opinion on the merit of the case of Petitioner, disposes of the writ petition with the observation that in the event Petitioner files an appeal under Section 12(1) of the OPLE Act within a period of four weeks hence, the same shall be considered in accordance with law giving opportunity of hearing to the parties concerned. In order to enable the Petitioner to move the appellate authority for condonation of delay in filing the appeal, if any, and for interim order, the notice of eviction issued under Annexure-2 passed in Encroachment Case No.4-258 of 2022 shall be kept in abeyance for a period of six weeks, if the same has not yet been given effect to, subject to the condition that the land in question is not immediately required for any public purpose.

6.1 Learned counsel for the Petitioner undertakes to serve a copy of the writ petition along with certified copy of this order on learned State Counsel for communication.

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

(K.R. Mohapatra)
Judge