

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 12777 of 2016

Prabhudayal Agrawala

.....

Petitioner

Ms. A.K. Dei, Advocate

Vs.

State of Orissa and others

.....

Opposite Parties

Mr. J. Patnaik, GA.

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

16.09.2022

Order No.

04.

This matter is taken up through hybrid mode.

2. Heard Ms. A.K. Dei, learned counsel for the petitioner and Mr. J. P. Patnaik, learned Government Advocate for the State.

3. The petitioner has filed this writ petition seeking to quash the notice under Annexure-1, issued by the Tahasildar, Binika under prescribed Form-Kha for eviction in the event the petitioner will not vacate the premises within 30 days.

4. Ms. A.K. Dei, learned counsel for the petitioner contended that the petitioner had earlier approached this Court by filing OJC No. 15029 of 1999 against similar notice issued against the petitioner. But against that notice of the Tahasildar, the petitioner had preferred an appeal bearing appeal No. 4 of 1997. The appeal was decided on context setting aside the order of the Tahasildar and remitting the matter back to the Tahasildar for re-determination. While the matter was pending for consideration, a fresh notice has been issued, which cannot sustain in the eye of law.

5. Mr. J.P. Patnaik, learned Government Advocate contended that after receiving the notice under Annexure-1, the petitioner should have brought to the notice of the Tahasildar the entire fact, which has been mentioned in the writ petition by filing objection. Instead of doing so, the petitioner has approached this court in the present writ petition. He further contended that the land in question under Binika Tahasil is meant for the bus stand, which is for public purpose.

6. Having heard learned counsel for the parties and after going through the record, since the petitioner has assailed the notice of eviction under Annexure-1 and the fact which has been mentioned in the writ petition has not been placed before the Tahasildar, which had happened prior to the issuance of notice under Annexure-1 and, as such without doing so, the petitioner has approached this court in the present writ petition. Therefore, this court is not inclined to entertain such writ petition. However, the petitioner is at liberty to file the objection to the notice issued under Annexure-1 before the Tahasildar, pointing out what has happened prior to issuance of the notice, so that the Tahasildar can consider the same and pass appropriate order in accordance with law. If the petitioner will be aggrieved by any order to be passed by the Tahasildar, the petitioner can file appeal against such order and thereafter revision, in accordance with law.

7. Accordingly the writ petition stands disposed of and the interim order passed on 02.08.2016 stands vacated.

(DR. B.R. SARANGI)
JUDGE