

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.16370 of 2022

Nimain Charan Dutta

....

Petitioner(s)

Mr. M.K. Pati,
Advocate

-versus-

State of Odisha & Ors.

....

Opposite Party(s)

Mr. U.K. Sahoo,
Addl. Standing Counsel

CORAM:
JUSTICE BISWANATH RATH

ORDER
05.07.2022

Order No.

01.

1. Heard the submission of Mr. Pati, learned counsel for the Petitioner and Mr. Sahoo, learned State Counsel for the Opposite Parties.

2. Short fact involved in this case is that on a proceeding being initiated under the OPLE Act vide Encroachment Case No.4-18/2022 vide Annexure-3 the Petitioner instated of filing response therein has straightway approached this Court in W.P.(C) No.13565 of 2022, which matter appears to have been disposed by a co-ordinate Bench of this Court on 27.05.2022 thereby directing the Petitioner to face the proceeding in filing his objection therein. It appears, the Petitioner filed his objection vide Annexure-5. It is alleged that even though such proceeding is still pending, the Tahasildar concerned has prepared a letter bearing No.2621 dated 27.06.2022 for giving effect to the eviction of the encroachers including the Petitioner.

In the above premises, a submission is advanced that in the event the encroachment proceeding initiated under the provision of the OPLE Act involving the Petitioner is still pending, the Tahasildar has no authority to issue letter for eviction of the encroachers including the Petitioner.

3. Mr. Sahoo, learned State Counsel in his opposition submitted that in the event any such proceeding is still pending, there is no law permitting the Tahasildar to undertake the exercise of eviction and such process is available only after conclusion of such proceeding.

4. Considering the submissions made by the parties, this Court observes, in the event the encroachment proceeding vide Encroachment Case No.4-18/2022 is still pending, there cannot be any eviction of the Petitioner during pendency of the proceeding.

5. The writ petition stands disposed of with the above observation.

(Biswanath Rath)
Judge