

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.17407 OF 2022

Gopal Pothal

....

Petitioner(s)
Mr.D.K.Ray,
Advocate

-versus-

State of Orissa and others

....

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

CORAM:
JUSTICE BISWANATH RATH

ORDER
15.07.2022

Order No.

01.

1. Heard learned counsel for the Parties.
2. This Court examines the matter on the question as to if the Petitioner was at all required to be provided further opportunity in disposal of LE Case No.17 of 2022. Considering the own submission of the Petitioner and getting into the attempt of filing by the Petitioner, this Court finds very same Petitioner in the first instance involving in LE Case No.2410 of 12, this proceeding came to be disposed of observing the Petitioner as an encroacher. Document at Annexure-5 again discloses that Petitioner facing another LE Case No.1636 of 12 stated to have been disposed of. Page-16 discloses initiation of third LE Case No.3990 of 14 involving the same, Petitioner stated to have disposed of even declaring the petitioner as an encroacher. From Page-17 this Court again finds same Petitioner again involved in LE Case no.1500 of 16 this case stated to have been also closed as also appearing from page-18 the petitioner accepting himself to an encroacher and deposited a sum of Rs.200/- as fine being an

encroacher. Page-19, 20 and 21 also disclose the Petitioner to have paid fine on being determined as an encroacher in the previous encroachment proceeding involved herein. Surprisingly vide Annexure-7, there is action of initiation of another encroachment proceeding.

3. This Court finds surprise in the action of the Tahasildar, Basudevpur going on initiating encroachment proceeding after proceeding instead of undertaking an exercise of eviction of encroacher even after proceedings have been closed in absence of challenge by way of appeal and further even after the petitioner accepts himself to be an encroacher and goes on depositing the penalty as assumed.

4. For the opinion of this Court, there is no necessity of initiation of subsequent encroachment proceeding once in a duly constituted proceeding, the Petitioner is already held to be an encroacher and even after Petitioner accepting such verdict of the competent authority and deposit the penalty for such illegal occupation. This Court finds strange in the action of the Tahasildar, Basudevpur also in the guise of accommodating the encroacher goes on initiating the proceeding which is not permissible in the eye of law. While directing the Collector, Bhadrak to examine the reason of repeated initiation of encroachment proceeding involving in one encroacher that too after the encroacher accepts himself as an encroacher in duly constituted proceeding and depositing the penalty. If necessary initiated proceeding involving such Tahasildar to take appropriate legal action to at least see but there is no initiation of repeated proceedings on self-same issue. Petitioner since already found to be an encroacher if landless and has no roof to accommodate him at this stage may apply for a piece of land available under any available scheme to the competent authority.

5. The Writ Petition stands dismissed but however with the observation hereinabove.

6. A copy of this order be handed over to the State Counsel to communicate the Collector as well as the Principal Secretary of concerned department to have clear check on illegal initiation of such cases involving for the following direction of this Court.

(Biswanath Rath)
Judge

Swarna

