

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC NO.15087 OF 2018

Chandra Sekhar Routray

....

Petitioner

Mr.A.K.Sahoo, Advocate

-versus-

State of Orissa & ors.

....

Opposite Parties

Mr.D.Mohapatra, Advocate

CORAM:

JUSTICE BISWANATH RATH

ORDER

3.1.2022

Order No.

07.

1. Heard learned counsel for the Parties.
2. The Writ Petition involves the following prayer :-

“It is therefore prayed that this Hon’ble Court may be graciously pleased to admit the writ application, issue Rule NISI, calling upon the opp.parties to show cause as to why the opp.parties No.2 and 3 shall not be directed to hand over the physical possession of the Shop Room No.8-1-S/73, which was allotted in his favour in the open tender call on 11.8.2000 in Sector-8m, CDA, Abhinab Bidanssi, Cuttack within a stipulated time.

If the opp.parties failed to show cause or show insufficient case make the said Rule absolute.

And pass any other order/orders would be deem fit and proper as facts and circumstances of the case.”

3. There are some controversies with regard to the Petitioner's asking for allotment of shop room, whereas Annexure-1 discloses that the disputed area is Plot No.8-1-S/73 Area 1080.00, as land and not shop room.

4. Mr.D.Mohapatra, learned counsel appearing for the C.D.A. submits that there is no asking for application form and the Petitioner while submitting his application suo motu has also come forward with deposit of Rs.24,354/-, which is of course lying with the Development Authority.

5. It is at this stage of the matter, this Court finds, in disposal of another Writ Petition bearing W.P.(C) No.3279 of 2009 on 17.8.2018, a Division Bench of this Court has directed as follows :-

“9. In view of the recent decision of the government, no discretionary quota should be exercised. Since there is no allotment letter, the recommendation of the discretionary quota cannot be acted upon and no direction can be issued in view of change in policy. Therefore, the petitioner is not entitled to the allotment of the plot. However if auction is conducted, the opposite party is directed to give preference on the auction price to the petitioner first, since he has the adjoining plot.

10. The amount already deposited will be refunded to the petitioner along with interest accrued thereon, if the opposite party has earned interest on the said amount, otherwise, only the principal amount will be refunded to the petitioner within four weeks from today.”

6. It is keeping the above direction in view, this Court finds, there may be difficulty even if the Petitioner participated in the auction. It is at this stage, learned counsel for the Petitioner is still showing interest to participate in the auction. In the circumstance, this Court in disposal of the Writ Petition observes, on the auction being held over the disputed property in terms of the order of this Court dated 17.8.2018 passed in W.P.(C) No.3279 of 2009, in the event the Petitioner participates in terms of his pending application, he may be allowed to participate but ultimately the decision should govern by the direction of this Court in disposal of W.P.(C) No.3279 of 2009.

7. Issue urgent certified copy.

(Biswanath Rath)
Judge

M.K.Rout