

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.18453 of 2022

Rudra Narayan Pradhan

....

Petitioner(s)

Mr. A.Pr. Bose,
Advocate

-versus-

State of Orissa & Ors.

....

Opposite Party(s)

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

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
01.08.2022**

Order No.

01.

1. This writ petition involves the following prayer:-

“The petitioner, therefore, prays that Your Lordship’s may graciously be pleased to admit this writ application, issue notice, call for the records from opp.parties, issue a writ / writ in the nature of Certiorari / Mandamus quash notice under Annexure – 1 and directing the opp.party no.2 not to evict the petitioner from the schedule land in the interest of justice.

And for this act of kindness the petitioner shall, as in duty bound ever pray.”

2. Appeal order involved herein vide Annexure-3 is challenged on the premises of illegal and inappropriate exercise of appeal power by the competent authority.

3. It is submitted that on coming to close an appeal the appellate authority by his order has not responded to the grounds raised by the Petitioners in the memorandum of appeal. Taking this Court to the

grounds raised in the memorandum of appeal at Annexure-2 and reading together with the discussions in the appeal order, Mr. Bose, learned counsel for the Petitioner submitted in an attempt to establish that in the minimum the appellate authority should have attended to the grounds at (iii) & (iv) before concluding the appeal.

4. Learned State Counsel has no denial to the grounds raised in the memorandum of appeal as available at page No.12 of the brief. There is also no dispute at Bar that there has been no discussion at all on ground nos.iii & iv being the major grounds in filing the appeal.

5. Considering the rival contentions of the parties and keeping the above in view, this Court reading the impugned order finds, there is neither any discussion nor any findings on the major grounds involving alleged illegal disposal of the original proceeding and the impugned order has been passed without providing opportunity of hearing. This being a very serious ground, this Court finds, there should have been at least endeavor by the appellate authority to answer on such grounds and thereafter should have proceeded to decide the appeal. In the process this Court finds, the appeal order at Annexure-3 is bad in law. Thus while interfering in the appeal order in R.M.A (Enc.) No.1/2022, this Court sets aside the same and as there is requirement of the disposal of the appeal afresh, this Court remits the matter to the Sub-Collector for re-adjudication of the appeal. The Appellate Court is also directed to decide the appeal making endeavor to answer on the grounds taken in the memorandum of appeal.

6. Petitioner is directed to appear before the appellate authority along with a copy of this order on 12th August, 2022. The appeal proceeding shall be concluded within a period of two months thereafter. On the revival of the appeal, this Court directs, there shall

be status quo involving the disputed property as on date till disposal of the appeal.

7. The writ petition stands disposed of with the aforesaid direction.

(Biswanath Rath)
Judge

Ayaskanta Jena

