

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 18484 of 2022

Chittaranjan Dash

.....

Petitioner

Mr. S. Swain, Advocate

Vs.

State of Odisha and others

.....

Opposite Parties

Mr. A.K. Mishra, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

22.08.2022

Order No.

01.

This matter is taken up through hybrid mode.

2. Heard Mr. S. Swain, learned Counsel for the Petitioner and Mr. A.K. Mishra, learned Additional Government Advocate for the State.

3. The Petitioner has filed this Writ Petition seeking direction to quash the order dated 27.05.2022 under Annexure-63 passed by the Opposite Party No.3, which has been passed in compliance to the order dated 17.02.2022 passed in W.P.(C) No. 2778 of 2022, by which the Secretary, BDA, Bhubaneswar requested the Commissioner, BMC to instruct the concerned Deputy Commissioner (ODA) Act, BMC to initiate necessary proceeding for eviction/demolition of the unauthorized constructions and constructions made beyond permission undertaken over common areas and open space of GGP Housing Scheme/BDA land in the scheme on detail enquiry by the field staff and who-so-ever is found in unauthorized construction/encroachment of the common area and open space/BDA land forming part of the scheme area should be demolished/evicted in accordance with law so as to protect the interest of the public and the authority.

4. Mr. Swain, learned Counsel for the Petitioner contended that while considering the representation, on 27.05.2022 the Secretary, BDA had not given opportunity of hearing to the Petitioner.

5. Mr. A.K. Mishra, learned Additional Government Advocate for the State contended that except Prayer No. ii, all other prayers which have been made in this Writ Petition, i.e. Prayer No. iii to vi are civil in nature, therefore, such relief cannot be granted. So far as Prayer No. ii is concerned, on consideration of the representation in compliance to the order passed by this Court, the Secretary BDA has disposed of the matter and remitted the same to the BMC. Now when BMC will take care of the issue in compliance to the order passed by the authority and will give opportunity of hearing to all the parties inviting objection and in that case, the petitioner will get an opportunity to file his objection to the eviction as alleged against him.

6. Having heard learned Counsel for the parties and after going through the record, so far as the Prayer No. ii is concerned since the order has been passed on 27.05.2022 by remanding the matter to the BMC, when any action will be taken by such authority they have to do in consonance with the principles of natural justice and if the Petitioner is in unauthorized occupation of any land and eviction if any is carried out, opportunity will be given by the BMC to file objection if any while issuing notice to him for eviction. In that case, the relief which has been sought before this Court under Prayer No. ii cannot have any justification to entertain. So far as the relief claimed under Prayer Nos. iii to vi is concerned, since those are civil in nature, this Court is not inclined to entertain such prayer and grant relief to the Petitioner.

7. With the above observation, the Writ Petition stands disposed of.

(DR. B.R. SARANGI)
JUDGE

Arun