

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**CRLREV No. 358 of 2022**

***Abdul Karar Khan and others***

***....***

***Petitioners***

*Mr.P.K. Satapathy,  
Advocate*

***-Versus -***

***State of Odisha and others***

***Opposite Parties***

***....***

*Mr. R. Tripathy,  
Additional Standing Counsel*

**CORAM:  
JUSTICE SASHIKANTA MISHRA**

**ORDER  
16.12.2022**

**Order No.  
4.**

1. This matter is taken up through hybrid mode.
2. Learned State Counsel informs that notices on opposite party nos. 2 and 3 have been served on 23.11.2022. There is however no appearance from their side. Hence, the revision is taken up for hearing.
3. Heard learned counsel for the petitioners and learned counsel for the State.
4. In the present revision the petitioners seek to challenge the order dated 02.06.2022 whereby their prayer for submission of show cause and for dropping of the proceeding was rejected and the petitioners were directed to execute Bond for Rs.5,000/- for each delinquent with one surety.
5. Section 107 of Cr.P.C. reads as under:-

*“107. Security for keeping the peace in other cases.*

*(1) When an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity and is of opinion that there is sufficient ground for proceeding, he may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond,<sup>1</sup> with or without sureties,] for keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit.*

*(2) Proceedings under this section may be taken before any Executive Magistrate when either the place where the breach of the peace or disturbance is apprehended is within his local jurisdiction or there is within such jurisdiction a person who is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act as aforesaid beyond such jurisdiction.”*

6. It is evident that before passing order to execute a Bond, the Executive Magistrate shall require such person to show cause in the manner. Reading of the impugned order suggests that on the date fixed, i.e. on 02.06.2022, the matter was posted for filing of show cause. The petitioners did not file a show cause but filed a petition to drop the proceeding. Such petition was filed on the ground that an order of status quo has already been passed in respect of the disputed land by the learned Civil Judge, Jagatsinghpur in I.A. No. 144 of 2020 arising out of C.S. No.186 of 2020. Since there is evidence of a civil dispute pending between the parties and an order of status quo has already been passed, it was incumbent upon learned Executive Magistrate to grant opportunity to the petitioners to bring on record such facts so as to enable him to pass necessary orders under Section 107 of Cr.P.C.

7. It is submitted by Mr. Satapathy, learned counsel appearing for

the petitioners that his clients are willing to participate in the proceeding by bringing all relevant facts in the form of a show cause so as to enable the Court to be apprised of the actual fact situation relating to the case land and to pass appropriate order.

8. In such view of the matter, the revision is disposed of by setting aside the impugned order and by directing learned Executive Magistrate, Biridi to permit the petitioners to submit their show cause and to allow them to participate in the proceeding. It goes without saying that learned Executive Magistrate shall pass necessary orders after considering the show cause and by affording opportunity of hearing to all concerned in accordance with law within a period of one month. The petitioners shall appear before the learned Executive Magistrate on 23<sup>rd</sup> December, 2022 to receive further instructions.

9. The CRLREV is accordingly disposed of.

*(Sashikanta Mishra)*  
*Judge*

