

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No.19788 of 2016

Nilamani Naik

.....

Petitioner

Mr. N. Panda-1, Advocate

Vs.

State of Odisha & Others

.....

Opposite Parties

Mr. H.M. Dhal, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE B.P. SATAPATHY

ORDER

21.11.2022

Order No.

12

This matter is taken up through hybrid mode.

2. Heard Mr. N. Panda-1, learned counsel appearing for the petitioner and Mr. H.M. Dhal, learned Additional Government Advocate appearing for the State-Opposite Parties.

3. In compliance of the order dated 18.03.2021, Mr. H.M. Dhal, learned Additional Government Advocate appearing for the State-Opposite Parties files two affidavits on behalf of opposite parties no.9 & 5 in Court today after serving a copy thereof on the learned counsel appearing for the petitioner.

4. As it appears, the order dated 18.03.2021 contains two parts. As per the first part, learned Additional Government Advocate has to furnish the stage at which the criminal investigation is at present going on, pursuant to the F.I.R. lodged by the District Sub-Registrar, and secondly he has to obtain instructions regarding the status of the Industry that was to be set up on the land acquired for that purpose and the present status of the compensation that are to

be paid and that has been paid to the parties. So far as first part is concerned, learned Additional Government Advocate files an affidavit on behalf of opposite party no.9, paragraph-4 whereof states as follows:

“4. That on the basis of the instruction as aforesaid, the then Sub-Registrar, Athagarh lodged an FIR with the Inspector-in-Charge, Khuntuni Police Station on 20.9.2016. But it appears the FIR so lodged by the then Sub-Registrar has not been registered which would be evident from a communication made by the I.I.C., Khuntuni P.S. vide Letter dated 23.6.2021, the copy of which is filed herewith as Annexure-E/9”.

So far as second part of the order dated 18.03.2021 is concerned, learned Additional Government Advocate files an affidavit on behalf of opposite party no.5, paragraph-3 whereof states as follows:

“3. That earlier a Counter Affidavit on behalf of the opposite party No.4 i.e. the Collector, Cuttack and opposite party No.6 i.e. the Tahasildar, Athagarh. It was stated in the said Counter Affidavit that though a preliminary notification U/s.4(1) of the L.A. Act under Annexure-1 dated 11.7.2008 was issued covering the plot of the land under Annexure-2, yet latter by virtue of a notification dated 21.7.2009, the plot of land belonging to the petitioner along with other plots were excluded from the land acquisition proposal at the stage of the notification U/s.6(1) of the L.A. Act. The notification dated 21.7.2009 though forms part of the earlier Counter Affidavit, yet for convenience, the same is being filed herewith and marked as Annexure-A/5”.

5. Mr. N. Panda-1, learned counsel appearing for the petitioner vehemently disputes the contentions raised in paragraph-3 of the affidavit, filed by opposite party no.5.

6. Since disputed question of fact is involved so far as second part of the order dated 18.03.2021 is concerned, this Court is not inclined to entertain such issue. The affidavits so filed in Court today be kept on record.

7. With the above observation, the writ petition stands disposed of.
8. Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

Alok

(B. P. SATAPATHY)
JUDGE

