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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C). No.20209 of 2022

Janma Sa

.... Petitioner(s).
Mr.D.R.Bhokta, Advocate

-versus-

State of Orissa & Ors.

.... Opposite Party(s)
Mr. S.Ghose, AGA

CORAM:
JUSTICE BISWANATH RATH

ORDER
19.09.2022

Order No.

02.

1. Heard learned counsel appearing for the parties. On consent of parties, the matter is taken up for final disposal. This Court also finds a small issue involving the impugned order challenged here at Annexure-6 to the extent “in the denial of the application under Section 22(2) of the O.L.R. Act, the competent authority has exceeded its jurisdiction?”
2. Considering the rival contentions of the parties this Court going through the entire impugned order and the reasoning therein, this Court finds the competent authority has given his clear view that there is no person in same caste available to purchase the property involved. Further the competent authority has also come to record that there is urgent need of money to the applicant for the treatment of his own daughter of the petitioner, who is suffering from serious ailments and she required to undertake urgent treatment at AIMS, Bhubaneswar. The only obstruction raised by the competent authority here appears to be the property situated in the heart of Boudh town. This Court, thus looking to the limited role with the competent authority under the

provision under Section 22 of the O.L.R. Act finds the competent authority is only to find (i) if there is a dire necessity (ii) if there is no availability of person to buy such property in the same caste or tribe and in the event above two contingencies are satisfied, he has the only option to allow the application. For the opinion of this Court situation of the property has nothing to do in consideration of such aspect. The competent authority failed seriously to appreciate the satisfaction of the precondition under the provision of law and that there involved urgent need of money on medical requirement.

2. In the circumstance, this Court finds the reasoning assigned by the competent authority in Annexure-6 in deciding the application under Section 22 of the O.L.R. Act, 1960 against the petitioner becomes erroneous. As a result, this Court interferes in the order at Annexure-6 and sets aside the same. However, for the petitioner is already satisfying the important contingency required to be considered involving Section 22 of the O.L.R. Act application, this Court finds there is no purpose in remitting the matter to the competent authority for re-consideration. For the above reasons, this Court allows the application under Section 22 of the O.L.R. Act at the instance of the petitioner.

3. The writ petition stands disposed of with the observation made hereinabove.

(Biswanath Rath)
Judge

sks