

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 20339 of 2022

Padma Behera

.....

Petitioner

Mr. S.J. Mohanty, Advocate

Vs.

Collector, Balasore and others

.....

Opposite Parties

Mr. D. Nayak, 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.J. Mohanty, learned Counsel for the Petitioner and Mr. D. Nayak, learned Additional Government Advocate for the State.

3. The Petitioner has filed this Writ Petition seeking direction to Opposite Party No.2-Sub Collector, Balasore to take prompt and effective action against the encroachers for eviction, who have illegally encroached the Government land, which is only meant for the Petitioner's passage to the homestead land of the Petitioner.

4. Mr. S.J. Mohanty, learned Counsel for the Petitioner contended that due to unauthorized encroachment of the Government land by the Opposite Parties 4 and 5, the petitioner has earlier approached this Court by filing W.P.(C) No. 12347 of 2014, which was disposed of vide order dated 11.07.2014 directing the Opposite Parties to consider the grievance of the petitioner and others and make a preliminary enquiry and being satisfied about prima facie encroachment, initiate appropriate proceeding under law within a period of two months from the date of production of certified copy of the order. It is contended that pursuant to such order passed by this Court, the Tahasildar caused inquiry and found that some persons have unauthorized encroached the government land, which is situated in the front side of the

petitioner's house. The Tahasildar accordingly submitted the report to the Collector indicating that since the land is situated in the urban area, he has no jurisdiction to pass any order of eviction.

5. Mr. D. Nayak, learned Additional Government Advocate contended that since the Tahasildar is not the competent authority to pass the order of eviction, he has produced the report before the Sub Collector, who is none else than the Estate Officer, who has been empowered with the power for eviction in the urban area.

6. Having heard learned Counsel for the parties and after going through the record, it appears that the Opposite Parties 4 and 5 are in unauthorized occupation of the Government land causing blockage to the ingress and egress of the house of the Petitioner. Therefore, pursuant to the order passed by this Court as indicated above, the inquiry was conducted by the Tahasildar, who submitted the report indicating therein that Opposite Parties 4 and 5 are the unauthorized occupant of the land in question and as such he being not the competent authority to evict them from the land belonging to the urban area, referred the matter to the Sub-Collector, who is the Estate Officer for eviction of unauthorized encroachers from Government land in the urban area. The said matter is pending before him for taking necessary step in accordance with law.

7. In view of the above, this Court disposes of the Writ Petition permitting the Petitioner to pursue his remedy before the appropriate forum for eviction of the unauthorized occupants as indicated above by following due procedure of law.

(DR. B.R. SARANGI)
JUDGE

Arun