

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.20572 of 2022

Mahabir Jena & Anr.

....

Petitioner(s)

Mr. S.Ku. Mishra,
Advocate

-versus-

State of Odisha & Ors.

....

Opposite Party(s)

Mr. S. Ghose,
Addl. Govt. Adv.

CORAM:

JUSTICE BISWANATH RATH

ORDER

23.08.2022

Order No.

01.

1.

This writ petition involves the following prayer:-

“It is, therefore, prayed that this Hon’ble Court may graciously be pleased to admit the writ application, call for the relevant records, issue notices to the opposite parties and after hearing the counsels for the parties, opposite parties be commanded not to carve out road over the land appertaining Hal plot no.1277 and Hal plot no.2305 under Khata no.931 in mouza Chhoti which is part of Plot No.2111 under Khata No.31, Measuring an area of Ac.2.73 decs till disposal of Revision Case No.57 of 2022 pending in the file of learned Commissioner, Consolidation, Odisha, Cuttack;

And any other order/ orders be passed as deems fit and proper;

And for such act of kindness, the petitioner as in duty bound, shall ever pray.”

2. Taking this Court to the pleadings made in this writ petition and the documents at Annexure-4 (series), Mr. Mishra, learned counsel for the Petitioners brings to the notice of this Court that there is

pendency of the Consolidation Revision No.57/2022 and also taking this Court to the representation of the Petitioner at Annexure-4 (series) and the endorsement made at the top of the representation at page 24 of the brief by the Sub-Collector himself, an allegation is made that when the Sub-Collector, Kendrapara entertains request of the Petitioner thereby directing the Tahasildar to have a field visit and submit report on the allegation of the Petitioner for decision at his end, at the same time he cannot proceed for laying out of the road over the property of the Petitioner involved therein.

3. Mr. Ghose, learned State Counsel, however, submits that in the event there is existence of endorsement of the Sub-Collector at Annexure-4, the Sub-Collector should have at least awaited till submission of a report by the Tahasildar pursuant to the direction at page 24 of the brief.

4. Considering the rival contentions of the parties involved herein, this Court from Annexure-4(series) finds, there is already a direction by the Sub-Collector in entertaining the representation of the Petitioners; to the Tahasildar, Derabis to have field verification and submit an appropriate report accordingly. It is for this development taken place on the complaint of the Petitioner at Annexure-4 (series), this Court is of the opinion that till a final decision is taken on the representation of the Petitioners at Annexure-4 (series), there should not be any attempt for laying down of the road over the disputed property in question. In the process this Court while directing the parties to maintain status quo with regard to the laying down of the road over the disputed property in question, also directs the Sub-Collector to take a lawful decision on the representation at Annexure-4 (series) within a period of two months from the date of submission of the report by the Tahasildar, Derabis. The Tahasildar, Derabis is also

directed to submit the required report pursuant to the asking of the Sub-Collector dated 17.06.2022 within a period of one month from the date of communication of an authenticated copy of this order along with a copy of the writ petition by the Petitioner, but involving the Petitioners and any other persons likely to be affected.

5. Petitioners are directed to serve a certified copy of this order along with a copy of the writ petition before the Sub-Collector, Kendrapara as well as the Tahasildar, Derabis within a period of seven days hence.

6. The writ petition stands disposed of with the above direction.

7. Free copy of this order be handed over to the learned State Counsel for necessary compliance.

(Biswanath Rath)
Judge

Ayaskanta Jena

