

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 20711 of 2022

Md. Idris Saha and others

.....

Petitioners

Mr. S.P. Mishra, Advocate

Vs.

State of Odisha and others

.....

Opposite Parties

Mr. A.K. Mishra, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

23.08.2022

Order No.

01.

This matter is taken up through hybrid mode.

2. Heard Mr. S.P. Mishra, learned Counsel for the Petitioners and Mr. A.K. Mishra, learned Additional Government Advocate for the State.

3. The Petitioners have filed this Writ Petition seeking to quash the order dated 21.03.2018 under Annexure-3 passed by Opposite Party No.3 in Misc. Case No. 26/2015 and to quash the consequential order dated 05.06.2018 under Annexure-4 issued by the Opposite Party No.5 in Revenue Misc. Case No. 21/2018.

4. Mr. S.P. Mishra, learned Counsel for the Petitioners contended that the Petitioners are the owner of the land and they have right to possess the same. Therefore, any action taken without giving notice to them for taking step for eviction, cannot sustain in the eye of law. Consequentially, they have approached this Court in the present Writ Petition.

5. Mr. A.K. Mishra, learned Additional Government Advocate for the State contended that by order impugned the Collector has passed an order for eviction of the persons those who are in unauthorized occupation of the Government Land and, as such, the order emanates from the order passed by this Court in PIL bearing W.P.(C) No. 4186 of

2015 disposed of on 18.03.2015. But the fact remains if the Petitioners claims that it is their own land, they may establish the same by approaching the appropriate forum, instead of approaching in the present Writ Petition.

6. Having heard learned Counsel for the parties and after going through the record, it appears that the Petitioners file this application in 2022 challenging the orders passed in the year 2018 under Annexure-3 and 4 by the Opposite Party Nos. 3 and 5 respectively after lapse of four years, where direction was given for taking step for eviction of the persons those who are in authorized occupation of the Government land. If the Petitioners claim that they are the owner of the property itself, it is it is open to them to establish the same by approaching appropriate forum in accordance with law. So far as the contention that the Opposite Parties 3 and 5 have passed the orders without giving opportunity of hearing to the Petitioners, that itself also contrary to the contention raised by learned Counsel for the Petitioners as because on one hand it is contended that the Petitioners are in occupation of their own land and on the other hand they have no locus to make such a prayer to give opportunity of hearing. But if they are in occupation of the Government land in that case, the opportunity of hearing would have been given to them. Therefore, unless the Petitioners establish their right over the land itself, the benefit as claimed by them cannot be granted.

7. In view of such position, this Court is not inclined to entertain this Writ Petition. However, liberty is granted to the Petitioners to pursue their remedy in accordance with law by approaching appropriate forum, if they are so advised. With that liberty, the Writ Petition stands disposed of.

(DR. B.R. SARANGI)
JUDGE

Arun