

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 20713 of 2022

Md. Yunus Alisa

.....

Petitioner

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 Petitioner and Mr. A.K. Mishra, learned Additional Government Advocate for the State.

3. The Petitioner has 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 Petitioner contended that the Petitioner is the owner of the land and he has right to possess the same. Therefore, any action taken without giving notice to him for taking step for eviction, cannot sustain in the eye of law. Consequentially, he has 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 petitioner

claims that it is his own land, he 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 Petitioner files 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 petitioner claims that he is the owner of the property itself, it is open to him 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 Petitioner, that itself also contrary to the contention raised by learned Counsel for the Petitioner as because on one hand it is contended that the Petitioner is in occupation of his own land and on the other hand he has no locus to make such a prayer to give opportunity of hearing. But if he is in occupation of the Government land in that case, the opportunity of hearing would have been given to him. Therefore, unless the Petitioner establish his right over the land itself, the benefit as claimed by him 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 Petitioner to pursue his remedy in accordance with law by approaching appropriate forum, if he is so advised. With that liberty, the Writ Petition stands disposed of.

(DR. B.R. SARANGI)
JUDGE

Arun