

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.21241 of 2022

Dinabandhu Samantaray

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Petitioner

Mr.S.C.Samantaray, Advocate

- Versus-

State of Odisha & Ors.

.....

Opposite parties

Mr.S.Ghose , AGA

CORAM:

JUSTICE BISWANATH RATH

ORDER

23.08.2022

Order No.

01

1. Heard the learned counsel appearing for the parties.
2. This writ petition involves the following prayer:

“It is therefore, humbly prayed that in the circumstances stated above, Your Lordships will be graciously pleased to issue a rule NISI in the nature of a writ of mandamus and or any other writ or writs calling upon the opp. parties to show-cause as to why the opp. parties shall not be commanded to consider the petitioners application dated 03.01.2022 under annexure-9 regarding allotment of plot No.6212 standing in the name of the O.P.No.1 to be given to the petitioner for the ends of justice.

And further be pleased to issue any other writ or writs, pass any other order or orders as this Hon’ble Court deems fit and proper.

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

3. This appears to be in second round of litigation of the petitioner almost on self same cause of action. Background involved herein that petitioner has his own land over Plot No.6213, 5746, 5645 and 5747. For petitioner getting inconvenience in having his own building with a unused plot remaining in between bearing Plot No.6212 belonging to Government shown to be in Annexure-5 is a

dead end plot, petitioner initially approached for allotment of Plot No.6212 in his favour but, however, in making the request to the competent authority, there was wrong mentioning of plot number so claimed. Be that as it may, finding no relief, petitioner approached this Court in W.P.(C).No.25926 of 2021. This writ petition was disposed of on contest of the parties by a coordinate Bench by its order dated 31.08.2021 with following direction:

“6. Accordingly, the writ petition is disposed of with a direction that the Government in General Administration and Public Grievance Department shall do well to consider the representation/application filed by the Petitioner as at Annexure-6 and pass a reasoned order thereon as expeditiously as possible preferably within a period of four months from the date of production of certified copy of this order along with a copy of the representation/application as at Annexure-6 and a decision thereof shall be communicated to the Petitioner forthwith. It is made clear that this Court has not expressed any opinion on the merit of the case of the Petitioner.”

4. It is claimed that pursuant to the direction vide Annexure-7, the petitioner case was considered in terms of the direction hereinabove but the request of the petitioner was rejected on the premises that the plot sought to be allotted in favour of the petitioner does not belong to State. It is finding inadvertent of the typographical error in the representation of the petitioner particularly involving the plot number, petitioner re-approached the authority vide Annexure-9 this time giving correct plot number recorded hereinabove through Annexure-5 i.e. Plot No.6212. Taking this Court to the impugned order, Mr.Samantaray, learned counsel for the petitioner contended that there has been mechanical rejection of the claim of the petitioner giving rise to file the present writ petition. Taking this Court to the pleading through paragraphs-6 and 15 of the writ petition and the specifications made in the further representation of the petitioner vide Annexure-9, Mr.Samantaray, learned counsel claims petitioner has two fold request in his representation i.e. he is

ready and willing to purchase Plot No.6212 even on assessment of premium prevailing further with a claim that Plot No.6212 though shown to be road but it has got dead end having no use by anybody, it is on the other hand if this plot is assigned to the petitioner and petitioner can assemble his plots bearing Plot Nos.6213, 5746, 5645 and 5747 taking together with Plot No.6212 there can be a good by the petitioner. Mr.Samantaray, learned counsel for the petitioner also claims in paragraphs-6 and 15 of the writ petition that even otherwise the petitioner is ready to part away equivalent portion of land from his own land in exchange of Plot No.6212. It is in the circumstance, Mr.Samantaray, learned counsel appearing for the petitioner claims for giving a suitable direction to the competent authority to consider the representation of the petitioner in favour of the petitioner.

5. Mr.Ghose, learned Additional Government Advocate however in reference to the earlier decision of this Court and the rejection order in the meantime contended that there is no illegality in the rejection order. Mr.Ghose, learned Additional Government Advocate contended that Petitioner suffered for his own fault by making a wrong mentioning of plot number. Mr.Ghose, learned Additional Government Advocate however did not object to the petitioner's re-approach to the competent authority on the self same issue and submitted such an application can be considered keeping in view the request of the petitioner through writ petition in paragraphs-6 and 15 as well as the pleading in the representation. He however submitted that the decision of the competent authority will be dependant on the fact finding of the competent authority as to the claim of the petitioner on plot no.6212 remaining correct and the plot involved is at dead end.

6. Keeping in view the submissions of respective counsels, this Court finds the representation of the petitioner vide Annexure-9 has already been processed through Annexure-10 for further examination. It is at this stage of the matter, looking to the map at page- 31 of the brief , this Court finds if the map position is accepted, Plot No.6212 appears to be a dead end plot and also appears to exist in the map in between Plot Nos.6213, 5746 which again belong to the petitioner. Looking to the position of Plot No.6212, such a plot can never be utilized by either Government or any future allottee as there shall be no access to such plot at all. In the interest of justice, there should be a decision in favour of petitioner keeping in view the offer in the application of the petitioner who wants either to purchase plot No.6212 or exchange it by parting away equivalent land either from plot No.5747 or 5746. This Court finds petitioner has genuine claim ought to be considered in consideration of Annexure-9 keeping in view the declaration of the petitioner in the representation at Annexure-9 and through paragraphs-6 and 15 of the writ petition. Further, for the observation made hereinabove, this Court directs the opposite party no.1 to take a decision on Annexure-9 at least within a period of two months from the date of communication of certified copy of this order along with copy of the writ petition while also keeping in view the undertaking of the petitioner and the observation of this Court hereinabove. Let certified copy of this order along with copy of the writ petition be served on opposite party no.1 within one week.

7. A free copy of this order be handed over to the learned State Counsel for doing the needful.