

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 520 of 2018

Mathura Bihari Mohapatra

Appellant
Mr. A. Mishra, Advocate

-versus-

Collector, Subarnapur and Another

Respondents

Mr. Debakanta Mohanty, Addl. Govt. Advocate

CORAM:

THE CHIEF JUSTICE

JUSTICE CHITTARANJAN DASH

ORDER

20.10.2022

Order No.

07. 1. The challenge in the present writ appeal is to an order dated 24th August, 2018 passed by the learned Single Judge dismissing W.P.(C) No.8270 of 2018 filed by the present Appellant.
2. In the said writ petition, the Appellant had questioned the order passed by the Sub-Collector-cum-Estate Officer, Sonapur on 16th July, 2012 as well as the order dated 8th February, 2018 passed by the Collector, Sonapur ordering the Appellant's eviction under the Odisha Public Premises (Eviction of Unauthorized Occupants) Act, 1972 (Act). The Appellant was ordered to be evicted from the quarters allotted to him i.e. Qtr. No.C-I, Officers and Staff Colony, Sonapur by virtue of he is being employed in the Sonapur Spinning Mill (Mill).
3. The admitted fact is that the Mill on becoming sick, was taken over by the Government of Odisha. It appeared that by the time the

eviction was ordered of the Appellant, the Mill had been sold in proceedings under the Companies Act to a private entity. However, the Appellant himself has superannuated in the meanwhile and, therefore, there was no justification for his continuing in the quarters.

4. Learned counsel for the Appellant then contended that some dues were still owed to him and, therefore, he had a right to retain the quarter till his entire dues are paid. The Court is unable to accept such plea. Since the issue concerning the Sonepur Spinning Mills is already before learned Company Judge the dues of the Appellant would have to be examined and settled in those proceedings. That cannot be a ground for the Appellant to continue occupying the quarters allotted to him, once he has attained the age of superannuation.

5. Consequently, the Court is not inclined to interfere with the impugned order of the learned Single Judge.

6. Learned counsel for the Appellant then prayed for some time for the Appellant to vacate the premises. It is directed that subject to the Appellant filing an affidavit of undertaking before the Collector, Sonepur within two weeks i.e. on or before 9th November, 2022 undertaking to handover peaceful and vacant possession of the quarter in his possession on or before 31st March, 2023, the Appellant will be allowed to retain the aforementioned quarter till then subject to, however, paying the requisite penal charges and rent up-to-date and further undertaking not to part with the possession to any third party and also not creating any encumbrances on the quarters in question. It is made clear that if the aforementioned affidavit of

undertaking is not filed on or before 9th November, 2022, it will be open to the Respondents to straightway take over possession of the quarter in question.

7. The appeal is disposed of in the above terms. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge

S.K. Jena/Secy.

