

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.21496 OF 2022

Bhaskar Panigrahi

....

Petitioner

Mr.D.P.Mohanty, Adv.

-versus-

Tahasildar, Remuna

....

Opposite Party(s)

Mr.U.K.Sahoo, ASC

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
16.9.2022**

Order No.

01. 1. Heard learned counsel for the Parties.
2. Bringing to the reference under Annexure-4, learned counsel for the Petitioner at the same time through Annexure-5, submits that there is suo motu initiation of a demarcation proceeding by the Public Authority. First round of attack involving such exercise is even though the Petitioner claims that he has already a legal right over a portion of the plot involved, he should be at least involved in the measurement process. The second limb of argument of the learned counsel for the Petitioner is for the Public Record the Petitioner is already the owner of a part of the property involved in the measurement process. It is only for the wrong position shown in the Map prepared by the Public Authority, the Petitioner has already

undertaken a process under Section 15(b) of the O.S.S. Act under Annexure-3 pending, vide R.P. No.117/2021. It is in the premises, learned counsel for the Petitioner objects the undertaking of such exercise before an outcome in R.P. No.117/2021. Learned counsel for the Petitioner also brings to the notice of this Court that there is already objection to the above action by the Petitioner and it is alleged, the Tahasildar, Remuna is not undertaking the objection exercise and on the other hand, moving to complete the demarcation aspect.

3. Mr.Sahoo, learned Additional Standing Counsel appearing for the Opposite Party based on the documents at Annexure-4 & 5 submits that since the Petitioner has already brought an objection on the working out of Annexure-4, there is no difficulty on the part of the Tahasildar to first consider his objection and then proceed for demarcation, if it is necessary. In the circumstance, Mr. Sahoo objects to the entertainability of the Writ Petition on the premises that the same is premature at this stage. Mr.Sahoo, learned Additional Standing Counsel getting through Annexure-3 and reading together with the notice attempted to submit that the plot involved demarcation process and the proceeding, vide Annexure-3 does not tally.

4. Considering the rival contentions of the Parties, this Court finds, through Annexure-4 the Tahasildar is undertaking the demarcation exercise in Mouza-Notipatana, Khata No.18, Plot Nos.173, 177, 181 & 192. Notice does not itself disclose the involvement of any appertaining tenant. Notice fairly discloses that there is already a notice to the Petitioner along with two others, as revealed through the bottom part of Annexure-4. This Court since finds, there is already a notice to the Petitioner to get an opportunity in the demarcation process. Fact remains here, the Petitioner raises objection in the demarcation on the premises that he has a R.P. Case pending for correction of the Map only. This Court here also finds, the Petitioner has already submitted his objection, vide Annexure-5 pending consideration of the Tahasildar, Remuna ought to be considered.

5. This Court recording the statement of the learned counsel for the Petitioner that there is no undertaking of demarcation exercise pursuant to Annexure-4 herein, observes, in the event there is no demarcation exercise undertaken in the meantime following Annexure-4, the Tahasildar, Remuna must consider the objection of the Petitioner, vide Annexure-5 also taking into consideration the disclosures through R.P. No.117/2021. In the event the Tahasildar finds that the property involved in demarcation process also got

involvement in the R.P. Case indicated herein, he shall take a decision in not proceeding with the demarcation and at least wait to work out Annexure-4 dependent on the outcome in R.P. Case No.117/2021. This Court further observes, in the event the Tahasildar goes to observe the land under demarcation proceeding does not involve the R.P. Case, there may not be any difficulty in undertaking the demarcation process but however involving the Parties likely to be affected. Decision as per the direction herein above shall be taken within a period of one month. If the Petitioner has not filed a copy of R.P. No.117/2021 before the Tahasildar, Remuna, he is directed to file a certified copy of the same before the Tahasildar, who will involve the same in consideration exercise. It is also made clear that in the event measurement exercise is over then action, if any, shall have to wait till final outcome in R.P. Case No.117/2021.

6. With the above observation/direction, the Writ Petition stands disposed of.

7. A free copy of this order be supplied to Mr.Sahoo, learned Additional Standing Counsel.

(Biswanath Rath)
Judge

M.K.Rout