

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 22231 of 2022

Sanjay Kumar Behera

.....

Petitioner

Mr. J. Bhuyan, Advocate

Vs.

***Collector, Mayurbhanj and
another***

.....

Opposite parties

Mr. A.K. Mishra, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

30.08.2022

Order No.

02

This matter is taken up through hybrid mode.

2. Heard Mr. J. Bhuyan, 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 notice of eviction dated 20.08.2022 issued by the Tahasildar-cum-Estate Officer, Baripada in OPP (EUO) Case No. 12/2022 and to hold that the aforesaid OPP Proceeding is not maintainable and to settle the land in question in favour of the Petitioner.

4. Mr. Bhuyan, learned Counsel for the Petitioner contended that the petitioner is in possession of the land over Plot No. 1061 Khata No. 267 measuring an area Ac. 0.07 dec having Kisam-Jungle, situated at village Chhancha under Baripada Tahasil in the district of Mayurbhaj stand recorded in the name of Government. Notice under Sub-Section (1) of Section 4 of the OPP Act, 1972 was issued in favour of the some persons including the petitioner, wherein his name finds place at Sl. No. 14. To the said notice, the petitioner has filed show cause under Annexure-2. When the said reply is pending for

consideration notice of eviction dated 20.08.2022 was passed directing the Petitioner to vacate the premises within seven days. It is contended that when the show cause reply submitted by the petitioner is not considered, the order of eviction cannot sustain in the eye of law. In the event, the show cause reply is considered and any order is passed against the petitioner, the petitioner could have file appeal against such order.

4. Mr. A.K. Mishra, learned Additional Government Advocate contended that if the petitioner is in unauthorized occupation of the forest land, in that case, the action taken by the authority is well justified, which does not require interference by this Court.

5. Having heard learned Counsel for the parties, since the Petitioner has already filed an objection/show cause under Annexure-2 to the notice of eviction under Annexure-1 and the same is pending in P.R. Case No. 1024 of 2022, the Tahasildar could not have taken step for eviction under Annexure-3 even though the petitioner is in unauthorized occupation of the said land.

6. In view of the above, the Writ Petition stands disposed of directing the Tahasildar-cum-Estate Officer, Baripada to take a decision on the show cause filed by the petitioner under Annexure-2 to the Writ Petition and pass appropriate order and thereafter proceed for eviction after observing the procedure of law as envisaged under the Act and Rules made there under.

7. The Writ Petition is accordingly disposed of.