

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C). No.22316 of 2022

Rabindra Kumar Singh

....

Petitioner(s).

Mr.S.K.Pattanaik, Advocate

-versus-

State of Odisha & Anr.

....

Opposite Party(s)

Mr.S.Ghose, AGA

CORAM:

JUSTICE BISWANATH RATH

ORDER

22.09.2022

Order No.

01

1. Heard learned counsel appearing for the petitioner.
2. Taking this Court to the background of the case through the series of developments once in dismissal of a writ petition in O.J.C.No.7386 of 1999 along with Writ Petition (Civil) No.13313 of 2015 appear to have been moved by Fakir Charan Singh and after his death in pendency of the litigation, represented by L.Rs. of Phakir Charan Singh, From the cause title at Annexure-2 and affirmation of this Court's order, a judgment in the Hon'ble Apex Court in disposal of Civil Appeal No.(S)4588 and 4589 of 2018, cause title both shows Phakir Charan Singh, petitioner being dead, the case was represented by his L.Rrs. Looking to the cause title portion here, this Court nowhere finds Rabindra Kumar Singh is the Son of Late Sanatan Singh party to the above litigation. Petitioner through Annexures-2 and 3 asserts his right, title and interest over the property. Through the writ petition, it is alleged that even though petitioner having right, title and interest over the disputed property, Cuttack Municipal Corporation is lying a road on the land of the petitionenr. Petitioner appears to have already made a representation

to the Commissioner, Cuttack Municipal Corporation vide Annexure-4 on 19.08.2022 asking the competent authority to pay due compensation to the petitioner for the area constructed as road. From the representation, it becomes clear that road is already constructed and petitioner since at page 31 of the brief seeks compensation for illegal use of the competent authority of his land as road. The writ petition involves a prayer directing opposite party to stop of any sort of construction appears to be wholly contrary to the contents of request in the representation of the petitioner's request involving the representation of the petitioner at least from page 31 clearly disclosing road construction already completed and petitioner wants compensation, the prayer in the writ petition is not in consonance with the representation of the petitioner.

3. In the circumstance, this Court finds the writ petition is not entertainable even on the asking of the petitioner to the competent authority to consider his such representation. This Court again finds the competent authority has no jurisdiction to take a call on the right, title and interest of the petitioner. For the own submission of the petitioner through his representation at Annexure-4 lying down of the road is already completed and petitioner wants due compensation, petitioner is permitted to approach the competent court of law seeking damage in the event he has already his right, title and interest over the disputed property.

4. The writ petition stands disposed of accordingly.

(Biswanath Rath)
Judge

sks