

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC NO.27776 OF 2021

Sanjay Keshari Mohapatra

....

Petitioner

Mr.N.Panda, Advocate

-versus-

State of Odisha & ors.

....

Opposite Parties

Mr.S.P.Panda, AGA

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
4.1.2022**

Order No.

05. 1. Heard learned counsel for the Parties.
2. Undisputedly, in the first round of litigation in disposal of W.P.(C) No.13126 of 2018 on 26.7.2018, this Court passed the following :-

“....Considering the submission of the learned counsel for the Petitioner, this Court directs the Tahasildar, Nimapara, O.P.2 to enter into an enquiry involving the parties likely to be affected and also undertaking a demarcation process, if necessary. It is also observed that in the event any encroachment is observed necessary proceeding under the OPLE Act will be initiated and decided in accordance with law involving the parties concerned.

The Writ Petition stands disposed of.”

3. For non-compliance of the aforesaid direction led to filing of CONTC No.373 of 2019, which appears to have been disposed of on the statement made by the Contemnor on consideration of the

documents to that extent, vide order of the Court dated 25.7.2019, which is as follows :-

“Considering the submission of the respective counsel and the statement made in the counter affidavit with the disclosure that there is already compliance of the order of this court along with production of the documents therein, this Court finds nothing survive in the contempt petition which is accordingly dropped.

Sri Kamaljit Das, Tahasildar, Nimapara, opposite party is present in Court today.

In view of the disposal of the contempt petition, personal appearance of Sri Kamaljit Das, Tahasildar, Nimapara, opposite party is dispensed with.”

4. The present Writ Petition has been filed on the allegation that even though the Contempt Petition has been disposed of on recording of the statement of the Contemnor, in fact there is no clearing of the encroachment involved and the Contempt Petition has been disposed of on erroneous and false submission of the Counsel for the Contemnor.

5. Mr.N.Panda, learned counsel for the Petitioner submitted that there is no other option than to file this Writ Petition and the Writ Petition is very much entertainable.

6. Mr.S.P.Panda, learned Addl. Govt. Advocate for the State on the other hand submitted that in the circumstance there was not only making of statement by way of affidavit but there was also

production of records to establish the same and it might be a case of fresh encroachment. Mr.Panda, learned Additional Government Advocate objected to the entertainability of the Writ Petition.

7. Considering the rival contentions of the Parties, this Court finds, undisputedly the Writ Petition was disposed of with appropriate direction. A Contempt Petition has also come to be disposed of. For the opinion of this Court, assuming the Contempt Petition has been disposed of recording the false statement of the Contemnor, for the opinion of this Court, in the event there was attempt to dispose of the Contempt Petition on false plea and on production of wrong records, no Writ Petition is entertainable, as the issue involved in the previous Writ Petition is already adjudicated and the complain of the Petitioner cannot be considered by way of a Writ. The Petitioner if has any other alternative remedy, he may avail the same.

8. The Writ Petition is dismissed on the ground of non-maintainability only.

(Biswanath Rath)
Judge

M.K.Rout