

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C) No.23659 of 2022**

***Pandaba Sahu and others***

***Appellant***

Mr. T. Nanda, Advocate

***-versus-***

***State of Odisha and others***

***Respondents***

Mr. D.K. Mohanty, AGA

Mr. P.K. Mohanty, Sr. Advocate for OP No.5

Mr. S. Palit, Sr. Advocate for OP No.6

**CORAM:**

**THE CHIEF JUSTICE**

**JUSTICE CHITTARANJAN DASH**

**ORDER**

**12.10.2022**

**Order No.**

**I.A. No.13839 of 2022 & W.P.(C) No.23659 of 2022**

04.

1. This application by Opposite Party No.6 seeking vacation of the interim order passed by this Court on 29<sup>th</sup> September, 2022 to the effect that there shall be no construction activity of any kind undertaken by Opposite Party No.6 on the land in question.

2. Pursuant to the notice issued in the petition on 19<sup>th</sup> September, 2022, a counter affidavit has been filed today by the State Government, copy of which has been handed over to the learned counsel for the Petitioner as well as learned counsel appearing for Opposite Party No.6.

3. The entire petition, projected as a Public Interest Litigation (PIL) at the instance of nine villagers of village Dunguripalli, PO Kuargaon, P.S. Saintala in district Bolangir was premised on the ground that the due process of law under the Orissa Government Land Settlement Act, 1962 (OGLS Act) was not followed while de-reserving land to be allotted by the Government to OP No.6 for

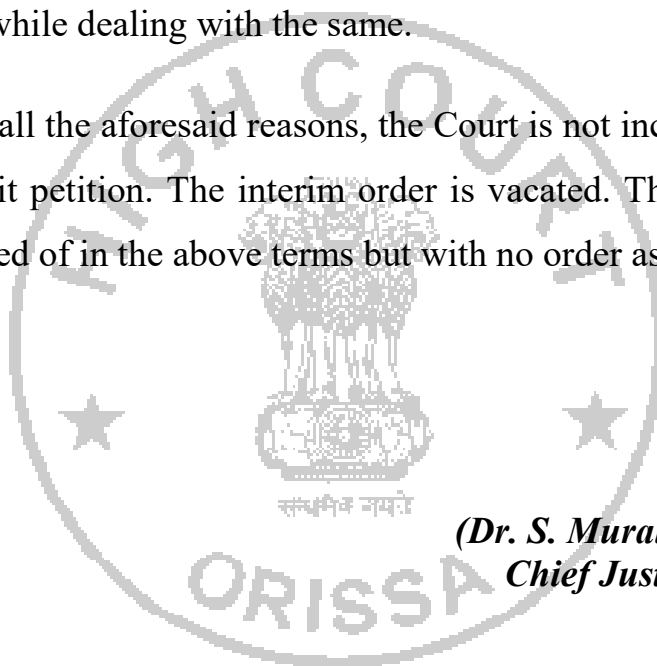
setting up a solar plant. The categorical averment was that the land in question was gochar land and the protests of the Dunguripalli Gram Panchayat (GP) were ignored. Copies of the deposition in the alienation case as submitted by the villagers were enclosed with the petition.

4. It now transpires that what the Petitioners have produced only part of the orders passed by the Collector. The petition does not mention that at the conclusion of the hearing of the de-reservation cases, two orders have passed by the Collector, Bolangir on 8<sup>th</sup> December, 2021, one of which orders pertains to Mouza-Dunguripalli and other to mouza-Tendlipalli. These orders have been enclosed with the counter affidavit as Annexure A-4 series. For some reason the Petitioners who were parties to the said proceedings made no mention of the said proceedings. All that is mentioned in paragraph-17 is that the Collector has de-reserved Gochar land of huge extent in both villages in an illegal and arbitrary manner; that the land was handed over to OP No.5 IDCO for industrial purpose which in turn has handed it over to OP No.6 for establishment of a solar plant.

5. It now transpires that even the above statement in the writ petition was incorrect. After the de-reservation exercised were completed and the land was handed over to OP No.6, there was surplus Gochar land in both the mouzas as it evident from the report of the Revenue Inspector, Ghunsar dated 14<sup>th</sup> September, 2021, which has also been enclosed with the counter affidavit. Therefore, the fact that a portion of the Gochar land is still available to the villagers was suppressed in the writ petition.

6. Apart from the above, it is seen that the impugned order dated 8<sup>th</sup> December, 2021 which was passed by the Collector in proceedings in which the Petitioners themselves participated is an appealable one. The appeal lies to the Revisional Development Commissioner (RDC). Since the Petitioners have participated in those proceedings, they would obviously be able to challenge the said impugned order dated 8<sup>th</sup> December, 2021 of the Collector in an appeal before the RDC. Any explanation for the delay in filing the appeal on account of pendency of the writ petition, will be taken into account by the RDC while dealing with the same.

7. For all the aforesaid reasons, the Court is not inclined to entertain the writ petition. The interim order is vacated. The writ petition is disposed of in the above terms but with no order as to costs.



**(Dr. S. Muralidhar)**  
**Chief Justice**

**(Chittaranjan Dash)**  
**Judge**