

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 23714 of 2022

Md. Abrar Khan

.....

Petitioner

Mr. P.K. Satapathy, Advocate

Vs.

State of Odisha and others

.....

Opposite Parties

Mr. J.P. Patnaik, GA

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

14.09.2022

Order No.

01.

This matter is taken up through hybrid mode.

2. Heard Mr. P.K. Satapathy, learned counsel for the petitioner and Mr. J. P. Patnaik, learned Government Advocate for the State.

3. The petitioner has filed this writ petition seeking to quash the eviction notice in Encroachment Case No. 72/2022-23 by the Tahasildar, Lakhanpur or to direct the Sub-Collector-cum-SDO, Jharsuguda to accept the petitioner's Appeal under Annexure-1 and decide the same on merit within a stipulated period.

4. Mr. P.K. Satpathy, learned counsel for the petitioner contended that pursuant to the notice of eviction issued, the petitioner preferred an appeal before the Sub-Collector-cum-SDO, Jharsuguda, but his appeal, which was filed under Section 12 (1) of the OPLE Act, 1972 was not entertained on the ground that he has not enclosed the order passed by the authority concerned. But it is contended that even the notice of eviction, which has been issued by the Tahasildar since has been indicated in the appeal, the Sub Collector is bound to entertain such appeal. Non entertainment of the same is absolutely bad in law.

5. Mr. J.P. Patnaik, learned Additional Government Advocate undertakes that if statutory authority has to entertain an appeal and also number the same, it has to consider the grievance of the petitioner and pass appropriate order in accordance with law. Non entertainment of the appeal is absolutely misconstrued one and, therefore, he makes a statement that he will ensure that the statutory authority will entertain he appeal and pass appropriate order in accordance with law.

6. Having hared learned counsel for the parties and after going through the record, without expressing any opinion on the merits of the case, this writ petition stands disposed of permitting the petitioner to pursue his appeal filed under section 12 (1) of the OPLE Act before the appellate authority, who shall entertain he same and pass appropriate order in accordance with law.

7. With the above observation, the writ petition stands disposed of.

(DR. B.R. SARANGI)
JUDGE

Arun