

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 23815 of 2022

Rashmi Rekha Mishra

.....

Petitioner

Mr. S.K. Bhanjadeo, Advocate

Vs.

State of Odisha and others

.....

Opposite Parties

Mr. S.N. Nayak, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

20.09.2022

Order No.

01.

This matter is taken up through hybrid mode.

2. Heard Mr. S.K. Bhanjadeo, learned counsel for the petitioner.

3. The Petitioner has filed this writ petition seeking to quash the order dated 04.07.2018 passed by the opposite party no.3 in connection with OPLE Appeal No. 08 of 2008, arising out of Encroachment Case No. 63 of 2008 and the petitioner further seeks direction to the opposite parties not to evict him from the possession over the land bearing Khata No. 974, Plot No. 1026, measuring an area of Ac.0.038 decimal in Mouza-Begunia, Tahasil-Begunia in the district of Khurda.

4. Learned counsel for the petitioner contended that the appeal preferred by the petitioner has been rejected by holding that the petitioner is in possession of Khata No. 990, Plot No. 1025, but the petitioner is in possession of Khata No. 974, Plot No. 1026. Therefore, the opposite parties have misconstrued the position and taken steps for eviction of the petitioner. Apart from that, it is contended that revision is pending before Commissioner of Consolidation in Revision Case No. 34 of 2010. Therefore, without taking into consideration the notice for eviction was issued, which cannot sustain in the eye of law.

5. Mr. S.N. Nayak, learned Additional Standing Counsel for the State contended that against the order passed in the appeal, the revision lies and instead of approaching the Revisional authority, the petitioner

has approached in the present writ petition and there is no dispute with regard to the fact that the petitioner is in unauthorized possession of the Government Land. As such, the benefit as claimed by the petitioner in this writ petition, that can be considered by the Revisional authority.

6. Having heard learned counsel for the parties and after going through the records, since against the order passed in appeal revision lies, the petitioner would have availed such remedy, but after 4 years of passing the order in the appeal on 04.07.2018 in Encroachment Appeal No. 8 of 2008, the petitioner has approached this Court in the present writ petition. Thus the writ petition suffers from gross delay and laches and as such the same is not entertainable. However, liberty is granted to the petitioner to pursue his remedy by filing revision application, if he is so advised, which shall be disposed of in accordance with law.

7. The writ petition is accordingly disposed of.

Arun

(DR. B.R. SARANGI, J.)

