

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.24788 of 2022

Subash Chandra Bairiganjan

....

Petitioner(s)

Mr. S.K. Swain,
Advocate

-versus-

State of Orissa & Ors.

....

Opposite Parties

Mr. U.K. Sahoo,
ASC

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
14.10.2022**

Order No.

02.

1. This Writ Petition involves a serious allegation that only to show outcome pursuant to the direction of this Court and to avoid a contempt proceeding, the demarcation proceeding involved herein has been closed half-hazardly without even providing opportunity of participation to the Petitioner. Learned counsel for Petitioner even alleged that even on intimation of the competent authority to appear for demarcation undertaking, the Petitioner since unavailable at required place, was constrained to request for short postponement, but however same has been declined.

2. Learned State Counsel objects to the claim of the Petitioner on the premises that even though the Petitioner was provided with opportunity, he did not attend to the same and the competent authority was compelled to complete the demarcation exercise.

3. In response to above objection of the learned State Counsel, learned counsel for the Petitioner submits that though there is no dispute that the Petitioner has been intimated, but the Petitioner has been intimated only one day prior to the particular date and since the Petitioner was not available in the locality, it was not possible on the part of the Petitioner to attend the proceeding on the date fixed. It is here alleged by the learned State Counsel that in spite of the telephonic request by the concerned authority, the Petitioner even did not attend to the request of the authority.

4. In the earlier occasion this Court felt it necessary to see the record to find-out the obstruction in participation of the Petitioner, if any. Today on production of the record, it has been clarified that the Petitioner was noticed just one day prior to undertaking of exercise. There is no denial to such fact. As this Court finds, the demarcation proceeding involved herein has been undertaken behind back of the Petitioner and Petitioner gets prejudiced, this Court interfering in the development through the order at Annexure-6, sets aside the same and directs the Tahasildar to undertake re-exercise of the demarcation process in presence of the Petitioner on 28th October, 2022. Petitioner undertakes to appear and co-operate the Tahasildar on the site required to be measured.

5. The Writ Petition stands disposed of with the above order.

6. Free copy of this order be handed over to the learned State Counsel to ensure above direction.

(Biswanath Rath)
Judge