

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 26218 of 2022

Sunita Mallik

.....

Petitioner

Mr. A.K. Nayak, Advocate

Vs.

State of Orissa and others

.....

Opposite Parties

Mr. A.K. Mishra, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

10.10.2022

Order No.

01.

This matter is taken up through hybrid mode.

2. Heard.

3. The petitioner has filed this Writ Petition seeking direction to opposite parties not to evict the petitioner from the schedule property, i.e. Mouza-Tangi, P.S-Tangi, Dist-Khordha, Khata No.-495, Kisam-Rakhita Anabadi, out of Area-Ac 0.470 Decimal encroached area Ac 0.040 decimal and Plot No. 473 out of area Ac. 0.753 decimal encroached area Ac. 0.020 Decimal.

4. Learned counsel for the petitioner contended that the encroachment case had been initiated against the petitioner in the year 2009. The Tahasildar had directed the R.I. to issue 'J' slip in favour of the petitioner vide order dated 05.03.2009. The petitioner is in occupation of government land long since and, therefore, the said land should be settled in her favour.

5. Mr. A.K. Mishra, learned Additional Government Advocate contended that the land is required for the purpose of construction of Court building. He also referred to the order dated 28.06.2010 passed by the Tahasildar Tangi, which is available at page-23, which reveals that the R.I. Tangi had reported that the encroacher had vacated the case land and accordingly the case was closed. In view of such position, the question of long possession by the petitioner does not arise. Thereby the subsequent encroachment has been initiated against her as she has encroached the very

same land once again.

6. Having heard learned counsel for the parties and after going through the records, it appears that since the petitioner is occupying the said land time and again and for that purpose if the eviction proceeding was continuing and as such once the petitioner had vacated the premises, which is available on record in the order dated 28.06.2010 at page-23, if subsequently the petitioner encroaches the same, she is liable to be evicted by following due procedure of law.

7. In that view of the matter, this Court is not inclined to entertain the writ petition and as such, against the order of eviction the alternative remedy is available under the statute and it is open to the petitioner to pursue her remedy in accordance with law before the appropriate forum.

8. With the above liberty, the writ petition stands disposed of.

Arun

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

