

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 26705 of 2022

Lalita Mohan Pradhan

.....

Petitioner

Mr. S.K. Padhi, Advocate

Vs.

State of Odisha and others

.....

Opposite parties

Mr. A.K. Mishra, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

21.10.2022

Order No.

02

This matter is taken up through hybrid mode.

2. Heard.

3. The Petitioner has filed this writ petition seeking to quash the notice of eviction dated 30.08.2022 under Anenxure-5 and further seeks direction to opposite party no.4 to settle the land in his favour.

4. Mr. S.K. Padhi, learned counsel for the petitioner contended that against the eviction notice issued, the petitioner preferred an appeal before the appellate authority. The appellate authority passed an order on 09.09.2015 stating therein that the suit land in question is objectionable in nature being classified as Sarba Sadharana Jogya in Kissam under Rakhit Khata. Section 7 (b) of OPLE Act 1972 provides that no such settlement shall be made if the land recorded as Kisam-Rakhit, Gochar or Sarba Sadharana Jogya. As such the encroacher is liable for eviction from the encroached land. Therefore, the petitioner being an encroacher, he is liable for eviction from the encroached land. Pursuant to the said order dated 09.09.2015, the notice of eviction dated 30.08.2022 was issued.

5. Mr. A.K. Mishra, learned Additional Government Advocate on instruction contended that though there are some defect in procedure with regard to issuance of notice to the petitioner, the notice under Annexure-5 may not sustain, but he contended that opportunity will be given to the petitioner by issuing fresh notice and by fixing time and allowing the petitioner to file objection, so that the same can be considered and disposed of.

6. Having heard learned counsel for the parties and after going through the record, the notice issued under Annexure-5 is hereby quashed and the Tahasildar Pallahara is called upon to issue fresh notice to the petitioner giving time to file his show cause, so that the petitioner can give his reply to the said notice, if he so desires and thereafter, the Tahasildar shall dispose of the same in accordance with law. The entire exercise shall be concluded within a period of four months from today. Needless to say that the petitioner shall cooperate for early disposal of the matter.

7. The writ petition stands disposed of.

Arun

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