

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.27449 of 2022

Shobhabati Baral

....

Petitioner(s)

Mr. P.K. Nanda,
Advocate

-versus-

State of Odisha & Ors.

....

Opposite Party(s)

Mr. S. Mishra,
ASC

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
18.10.2022**

Order No.

1.

1.

This writ petition involves the following prayer:-

“It is, therefore, humbly prayed that this Hon’ble Court may graciously be pleased to issue Rule Nisi calling upon the Opp. Parties to show cause as to why a writ in the nature of mandamus or any other appropriate writ(s) shall not be issued to direct the opp.parties to issue certificate of land right in favour of the petitioner with immediate effect in view of annexure-5 as has been issued as per **The Odisha Land Rights To Slum Dwellers Act’ 2017** and further be pleased to restrain the opp.parties to enforce the notice dtd.10.10.2022 to the petitioner issued by the Tahasildar, Khurda under annexure-6 and further be pleased to direct the opp.parties to settle the place in faovur of the pettioenrs for their livelihood as per the guideline and may pass such other order/orders as deemed just and proper.”

2. Through Annexure-5 it has been clearly established that the mother-Petitioner is already enlisted under “Usha Survey Scheme” for settlement of the land under the provisions of the Odisha Land Rights to Slum Dwellers Rules, 2017. While the matter stood thus vide Annexure-6 son of the Petitioner has been noticed under the OPLE Act

as to why he shall not be evicted from the disputed land and at the same time the Petitioner is praying for settlement of the said land under the provision of the Odisha Land Rights to Slum Dwellers Rules, 2017. It is, in the circumstance, by filing this Writ Petition, the Petitioner is seeking for a mandamus for enforcement of promise given to the slum dwellers under the Odisha Land Rights to Slum Dwellers Rules, 2017.

3. Learned State Counsel, on the other hand, objects the claim of the Petitioner for involvement of the notice at Annexure-6 and submits that once there is OPLE proceeding, nothing prevented the Petitioner or her son to resist such proceeding and a request is made for dismissal of the writ petition.

4. Considering the rival contentions of the parties and looking to the Annexure-5 this Court finds, the Petitioner is already enlisted as a slum dwellers. However, Annexure-5 nowhere discloses the land description. It is at this stage coming to the notice at Annexure-6 this Court finds, the notice appears to have been issued under the provision of the OPLE Act to the son of the Petitioner, which of course discloses the plot details. In the circumstance, this Court observes, in the event there is already listing of the name of the Petitioner involving same land under the provision of the Odisha Land Rights to Slum Dwellers Rules, 2017, nothing prevents Shobhabati Baral-the Petitioner to appear before the Tahasildar and bring such development to the notice of the Tahasildar for his considering in the proceeding vide Encroachment Case No.38/22-23. In the process this Court in disposal of the Writ Petition observes, provided the Encroachment Case No.38/22-23 is still pending consideration, it will be open to Somanath Baral son of the present Petitioner to file his response also enclosing the list prepared involving his mother under the Odisha Land Rights to Slum Dwellers Rules, 2017 to enable him to find, if the OPLE

proceeding should continue or not. In the event the proceeding is still pending and a response is filed by Mr. Somanath Baral within ten days hence, the Tahasildar shall do well in first undertaking an exercise on the maintainability of the OPLE proceeding and by completing such exercise within a period of one month from the date of filing of response alongwith a copy of this order. Till a decision is taken in the matter, there shall be status quo as on date in respect of the disputed property in question.

5. Since providing of certified copy of this order will take some time, it will be open to the Petitioner to file an affidavit indicating the interim protection granted here.

6. This Writ Petition stands disposed of.

(Biswanath Rath)
Judge

