

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C) No.27624 of 2022

Bhismadev Dora

....

Petitioner

***Mr. B.Mohanty,
Advocate***

-versus-

State of Odisha & others

....

Opposite Parties

***Mr. U.K. Sahoo,
A.S.C***

**CORAM:
JUSTICE BISWANATH RATH**

ORDER

26.10.2022

Order No.

- 01.
1. Heard the submission of Mr. B. Mohanty, learned counsel for the petitioner and Mr. U.K. Sahoo, learned State Counsel.
 2. The matter is taken up at the fresh admission stage. The Writ Petition is involved an allegation in Para-9 of the Writ Petition that in spite of a notice of eviction issued on 18.04.2022 and a follow up action taken in July vide Annexure-4 in undertaking an exercise of demarcation on the premises of an encroachment at the instance of the petitioner further in the pendency of the demarcation proceeding, there is verbal threatening by the Municipal Authority in demolishing the property situated over the alleged disputed land. Through the pleading it is also alleged, the notices annexed at Pages-19 and 20 under Annexure-3 Series all appearing through the notice issued on 18.04.2022, but the same did not indicate any plot in question.
 3. Mr. Mohanty, further submitted that the petitioners have

already made an exercise of undertaking of demarcation requests to this Court for protection of the petitioner atleast till disposal of the demarcation proceeding. This Court finds no pleading in the Writ Petition on similar request of the petitioner to the Municipal Authorities as of now. Be that as it may since the document vide Annexure-4 depicts the petitioner undertaking an exercise of demarcation to find if there is any encroachment as alleged by the Municipality Authority, petitioner should get the protection from eviction at least till completion of the Demarcation Case No. 164 of 2022. This Court accordingly while protecting the petitioner for one and half months permits the petitioner to file a response pursuant to Annexure-3 Series before the Executive Officer, Bargarh Municipal Council requesting therein to keep in abeyance of the notice of eviction at least till disposal of the Demarcation Case No. 164 of 2022 by making such application within seven days hence. This Court since finds action of the Municipal Authority shall be dependent on the ultimate outcome in Demarcation Case No. 164 of 2022, in the disposal of the Writ Petition, this Court direct the Tahasildar, Bargarh (Opposite Party No.4) to dispose the Demarcation Case No. 164 of 2022 while involving the petitioner and also involving the Executive Officer, Bargarh Municipal Council. To avoid any further complication on the issue involved, the Demarcation Proceeding is directed to be showing finality at least within a period of one and half months from the date of receipt of the certified copy of this order.

4. A free copy of this order be handed over to the State Counsel for compliance. Petitioner may bring to the notice of this Order to the Municipal Authority by producing certified copy of this order within 16/17 days.

5. This Writ Petition stands disposed of accordingly.

(Biswanath Rath)
Judge

Balaram

