

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 3186 of 2022

Girish Pradhan

.... **Petitioner**
Mr.S.K.Dwibedi, Advocate

-Versus-

State of Odisha & Others

.... **Opposite Parties**
Mr. Tapas Ku.Praharaj,SC

CORAM:
JUSTICE R.K.PATTANAİK

ORDER
02.11.2022

Order No.

01.

1. Heard learned counsel for the petitioner and Mr. Praharaj and learned counsel for the State-opposite party.
2. Instant petition under Section 482 Cr.P.C. is filed by the petitioner challenging the impugned order dated 5th August, 2021 passed in Criminal Misc. Case No. 28 of 2021 under Annexure-1 by the Executive Magistrate, Athamallik on the grounds stated therein.
3. Perused the copy of the impugned order i.e. Anneuxre-1.
4. Learned counsel for the petitioner submits that in respect of the case land which was purchased from the seller, a dispute arose which was carried to the civil court and a judgment was rendered in C.S. No. 37 of 2016 which stands in his favour, however, in respect of the subject, some interested persons of the family belonging to the seller approached the Executive Magistrate in a proceeding under Section 144 Cr.P.C. and therein the impugned order under Anneuxre-1 was passed with attachment of case land without

providing him an opportunity of hearing. Learned counsel for the petitioners submits that the Executive Magistrate without hearing the defence of the petitioner straightaway passed the order and attached the case land which is an illegality and therefore, it should be quashed.

5. Mr. Praharaj, learned counsel for the State submits that since there was breach of peace apprehended by the learned Executive Magistrate, therefore, such an order of attachment of the case land was passed restraining both sides from entering into the case land also appointed a receiver in respect thereof and hence, there is no illegality and if at all the petitioner is aggrieved, he can approach the court and submit his defence.

6. Considering the facts on record and submissions of learned counsel for the petitioner as well as Mr. Praharaj, learned counsel for the State, the Court is of the view that preliminary order has been passed by the learned Executive Magistrate and on the ground that there was apprehension of breach of peace, order of attachment of the case land was directed which in the considered view of the Court may not be unjustified and that apart, the order is passed at a preliminary stage with a direction to the petitioner to appear and respond.

7. Having regard to the above facts, the Court is of the view that the impugned order which has been passed under Annexure-1 not to be interfered with, however, at least status quo should be directed in respect of the case land as on today which would serve the purpose and meet the ends of justice.

8. Accordingly, it is ordered.

9. In the result, CRLMC stands disposed of with a direction that the petitioner shall submit the defence in the proceeding in Criminal Misc. Case No. 28 of 2021 initiated under Section 146 Cr.P.C. which shall be considered and the learned Executive Magistrate, Athamallik court shall thereafter pass appropriate orders and till then there shall be a status quo maintained vis-à-vis the subject matter in dispute.

(R.K.Pattanaik)
Judge