

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.29292 OF 2022

Bimalini Pradhan & ors.

....

Petitioners

Mr.P.K.Nayak, Adv.

-versus-

State of Odisha & ors.

....

Opposite Party(s)

Mr.S.P.Panda, AGA

CORAM:

JUSTICE BISWANATH RATH

ORDER

11.11.2022

Order

No.

1.

1. Heard learned counsel for the Parties.

2. Filing the Writ Petition, the Petitioners challenge the inaction of the Competent Authority, O.P.3 in not working out the demarcation direction of the Collector, Nayagarh, O.P.2 under Annexure-2, which appears to be in disposal direction of this Court in W.P.(C) No.17904/2017. It appears, involving inaction allegation there is moving of another round of litigation by a group of persons in W.P.(C) No.20634 of 2018, which has also been disposed of directing the Competent Authority to implement the direction of the Collector, Nayagarh.

3. Learned counsel for the Petitioners allege, repeated directions of this Court while also involving a clear direction of the Collector has not been worked out, on the other hand, the Petitioners have been individually victimized by initiation of proceedings and deciding under the OPLE Act appearing at Pages-34 to 43. Learned

counsel for the Petitioners claims for documents at Pages-34 to 43 clearly indicates the land in possession of the Petitioners, unless the demarcation proceeding is concluded, there should not be eviction of each of the Petitioners.

4. Mr.Panda, learned Additional Government, on the other hand, submits, there is no nexus in between the demarcation proceeding and the encroachment proceeding and in fact, there never involved demarcation of the encroachers' land except for the direction of the Collector. There may be demarcation of village land involved. Mr.Panda thus submits, the Writ Petition is a misdirected one and should be dismissed.

5. This Court here finds, there is no dispute that there has been disposal of at least two Writ Petitions and there should not be any doubt that there is any obstruction in working out the direction in Annexure-2. For there is already clear direction for working out Annexure-2, the Collector's direction involved herein, there is no necessity of giving further direction. So far as the claim of the Petitioners involved herein, instead of working out the direction of the Collector, Nayagarh, the Petitioners have been individually proceeded under the OPLE Act in a process to evict them from the land in their occupation. This Court here finds, the OPLE Cases instituted and involved the Petitioners appearing from Pages-34 to

43 of the Brief have already been closed in the meantime with clear observation holding the Petitioners as Encroachers.

Undisputedly, there has been no appeal pending involving this eviction order. Further since this Court nowhere finds that the Petitioners being the lawful owners of the land in the village involved, in absence of any pleading and/or material establishing the Petitioners if lawful owners of land entitled to be demarcated under the direction of this Court. On the asking of the Court to the learned counsel for the Petitioners to at least establish through the Record of Rights, if any, standing in their favour so as to invite the implementation of the direction of the Collector, Nayagarh through Annexure-2, learned counsel for the Petitioners fails in producing any such material to at least prima facie establish that the Petitioners are the lawful land owners in the village involved and required to be protected at least till demarcation proceeding gets concluded.

6. On the other hand, this Court finds, Petitioners have clandestinely moved the present Writ Petition to seek protection from the action under the OPL Act staring on their faces on disposal of the OPLE Proceedings, vide Pages-34 to 43. This Court here finds, Petitioner nos.1 to 3, 6, 9 & 10 have already faced OPLE Proceedings, vide Pages-34 to 36, 39, 42 & 43 respectively and all these cases have been disposed of after observing the Petitioner Nos.1 to 3, 6, 9 & 10 are all encroachers and each of the Petitioners

has been directed to vacate the encroached plots. Further on their own pleadings and submissions, there is no challenge to the OPLE Proceeding orders in higher forum.

7. In the circumstance and as there is ultimate outcome in the OPLE Proceedings involved herein, this Court observes, many of the Petitioners since are Encroachers, they have no locus standi to claim for implementation of the direction in Annexure-2.

8. The Writ Petition bears no merit and thus stands dismissed. Dismissal of the Writ Petition shall, however, not affect any of the Petitioners' right already accrued in the disposal of above two disposed of Writ Petitions.

9. A free copy of this order be supplied to the learned Additional Government Advocate.

(Biswanath Rath)
Judge

M.K.Rout