

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.30807 OF 2022

Dhirendra Malik and others ***Petitioner(s)***
Mr.N.P.Parija,Adv.

-versus-

State of Odisha and others ***Opposite Party(s)***
Mr.S.Ghosh,AGA

CORAM:
JUSTICE BISWANATH RATH

ORDER
21.11.2022

Order No.

01.

1. Heard learned counsel for the Parties.
2. The Writ Petition involves the following prayer:-

“It is therefore prayed that this Hon’ble Court may be graciously pleased to admit the writ application, issue Rule NISI, calling upon the opp. Parties to show cause as to why the grievance of the petitioners will not be considered under Annexure-3,4 & 5 and any aggrieved persons.

And if the opp. Parties failed to show cause or show insufficient cause make the said Rule absolute and direct the opp. Parties No.1 to 5 to consider the grievance of the petitioners and other affected parties under Annexure-3 and 4.

And may further be pleased to pass any other order(s)/direction(s) as this Hon’ble Court deem fit and proper in the facts and circumstances of the case.

And for the said act of kindness, the petitioners shall as in duty bound ever pray.”

3. Bringing to the notice of this Court, a development through the single Bench order in disposal of W.P.(C) No.9030 of 2018, Mr. Parija, learned counsel for the Petitioners submits that there is, in fact, no land available to be distributed in fragmentation of Chaka and

requests this Court for a direction to the Tahasildar, Salipur to consider the grievance of the Petitioners before distribution of Chaka in terms of disposal of the direction herein.

4. Mr.Ghose, learned Additional Government Advocate opposes the contentions of Mr.Parija, learned counsel for the Petitioners and submits that once the High Court has given a clear direction, the Tahasildar is duty bound to comply such direction. Petitioners if gets affected are to find out other modes available for such purposes.

5. Considering the rival contentions of the parties , this Court finds the first round of litigation in disposal of W.P.(C) No.1782 of 2016, High Court passed the following:-

“Heard.

Considering the limited nature of request involved in this petition and as this Court finds the petitioners request vide Annexure-2 to this petition is pending consideration before the Director, Consolidation, Odisha-opposite party No.2, this Court disposes of the opposite party No.2 to look into the grievance of the petitioner vide Annexure-2 and take a final decision thereon by passing an appropriate order within a period of four weeks from the date of communication of this order.

Since the order is passed at the admission stage, petitioners are directed to serve certified copy of this order before the opposite party No.2 within a period of ten days from today for his/her proceeding in the matter.

Issue urgent certified copy as per rules.”

It appears there is second round of litigation involving W.P.(C) No.9030 of 2018 the following order is passed:-

“Heard learned counsel for the parties.

Shri Sahoo, learned counsel appearing for the petitioners taking this Court to the series of documents from Annexures-1 to 7, contended that the initiation of the proceeding by the Tahasildar, Salipur after 29 years is per se illegal.

Considering the submissions of Shri Sahoo, learned counsel for the petitioners and looking to the contents of the notice and the authority being the Tahasildar, this Court finds such matters can very well be considered by the Tahasildar, Salipur. Since notice is already there in Annexure-8 to the writ petition and on his own submission of the learned counsel for the petitioners that a show-cause pursuant to such notice is already filed before the Tahasildar, Salipur, this Court is not inclined to entertain this writ petition at this stage rather leave this matter to the Tahasildar, Salipur for taking a decision on the same as early as possible and accordingly dismisses the writ petition.

It is at this stage of the matter, Shri Sahoo, learned counsel for the petitioners sought for a time target in the matter of disposal of the matter vide Annexure-8. This Court directs that if the notice is already complete and the pleading is also complete, the proceeding vide Annexure-8 be concluded within a period of two months from the date of communication of the certified copy of this order by the petitioners.

Issue urgent certified copy as per rules.”

There appears another round of litigation in disposal of W.P.(C) No.21913 of 2022 following order came to be passed:-

“Heard learned counsel for the Parties.

In filing the affidavit in response to the order of this Court dated 20.9.2022 through Paragraph-5 therein, it has been brought to the notice of this Court that there is huge number of villagers involving such allotment. However, in the meantime pursuant to the disposal direction in W.P.(C) No.17821/2016, there is already allotment in favour of the beneficiaries. Previously there was also allotment of 80 numbers of Chakas to 80 nos. of rayats and for obstruction because of rainy season, the rest allotment could not be undertaken. The Tahasildar, however, undertakes to execute fresh allotments at least within a period of two months from the date of communication of this order.

With the above undertaking, the Writ Petition stands disposed of.

A free copy of this order be supplied to the learned State Counsel.”

6. In earlier occasions, this Court while directing the Tahasildar to work out and also given direction to the Tahasildar to take into account the contention raised in such Writ Petitions, there also involves a show cause notice for objection. In disposal of the second Writ Petition, this Court permitted the parties to agitate their issue while directing the Tahasildar to complete the proceeding. In the third Writ Petition, this Court finds, there has already allotment in favour of the beneficiaries. Previously there was allotment of eighty numbers of Chakas to eighty numbers of rayats. This Court observes, provided the distribution of Chaka is still pending, nothing prevents the Petitioners to raise their objections for consideration of the Tahasildar before the final distribution of the Chaka involved, the Tahasildar shall do well before distribution of Chaka and/or balance Chaka to take into account the development through Annexures-3 & 4.
7. The Writ Petition stands disposed of.
8. Urgent certified copies be supplied on proper application.

(Biswanath Rath)
Judge

Swarna