

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.32186 OF 2022

Sidheswari Dalei and another ***Petitioner(s)***
Mr.K.A.Guru,Adv.

-versus-

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

CORAM:
JUSTICE BISWANATH RATH

ORDER
08.12.2022

Order No.

02.

1. Heard learned counsel for the Parties.
2. This Writ Petition involves a challenge to the order dated 04.06.2020 involving an application under Section 22 of the O.L.R. Act. Taking this Court to the manner of dismissal and that too dismissing the proceeding during the Covid-19 period preventing the citizens of the State having their normal moment at the relevant point of time, Mr.Guru, learned counsel for the Petitioners thus contends the order must go and looking to the nature of proceeding, Petitioners should be provided with the opportunity of hearing and there should be merit disposal of the proceeding involved.
3. Mr.Panda, learned Additional Government Advocate however in reference to the Appeal provision under Section 58 of the Act contends since the Petitioners have a statutory remedy of Appeal, this Court should decline to entertain the Writ Petition and relegate the Petitioners to the Appeal forum and thus praying for dismissal of the Writ Petition.

4. Considering the rival contentions of the Parties and looking to the nature of dismissal of the proceeding, for the opinion of this Court relegating the Petitioners to Appeal forum will be simply wastage of time. In the circumstance and looking to the nature of order dismissing a duly constituted proceeding in absence of the Petitioners and in dire Covid-19 conditions operating in the State, this Court accept the plea of the Petitioners and thus inclined to interfere in the order dated 04.06.2020. Setting aside the impugned order, remits the matter back to the Sub-Collector, Boudh to recommence the proceeding under Section 22 of the O.L.R. Act and disposing of the same in accordance with law but in the involvement of the Petitioners.

5. Since the matter is decided in participation of the Petitioners, Petitioners are directed to appear before the Sub-Collector, Boudh on 15.12.2022 along with copy of the order of this Court and take date of hearing. On the issue of point of law as to entertainability of a proceeding under Section 22 of the Act, Mr. Guru, learned counsel for the Petitioners attempted to take out the proceeding itself on the basis of a judgment of this Court covering his case. It may be open to the Petitioners to raise such contentions in the proceeding and decision, if any, supporting the Petitioners may also be cited in the proceeding.

6. The Writ Petition thus stands disposed of.

(Biswanath Rath)
Judge

Swarna