

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C) No. 33392 of 2022

Jhali Naik

.....

Petitioner

Mr. K.K. Rout, Adv.

Vs.

State of Odisha and others

.....

Opposite Parties

Mr. H.M. Dhal, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

08.12.2022

Order No.

01.

This matter is taken up through hybrid mode.

2. Heard Mr. K.K. Rout, learned counsel for the petitioner and Mr. H.M. Dhal, learned Addl. Government Advocate appearing for the State-opposite parties.

3. The petitioner has filed this writ petition seeking direction to the opposite parties not to evict the petitioner from Fasidia Harijan/Pana Sahi Slum, Tulasipur, Cuttack by demolishing the hutment without following due procedure of law and further seeks direction to the opposite parties to take steps to settle the land situated in Fasidia Harijan/Pana Sahi Slum in favour of the petitioner within a stipulated time.

4. Mr. K.K. Rout, learned counsel for the petitioner contended that in view of the provisions contained under Section 483 and 484 of the Orissa Municipal Act, 2003, the petitioner could not have been evicted. It is contended that the apex Court in *Francis Coralie Mullin v. The Administrator*, (1981) 6 SCC 608, *U.P. Avas Evam Vikas Parishad v. Friends Coop. Housing Society Limited*, 1995 SCC (supl.3) 456, *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545, *M/s Shantistar Builders v. Narayan Khimalal Totame*, (1990) 1 SCC 520, *Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan*, (1997) 11 SCC 121, *P.G. Gupta v. State of Gujarat*, (1995) 2 SLR 72

and this Court in ***Rutuparna Mohanty, Managing Trustee, Maa Ghar Foundation v. State of Orissa*** (W.P.(C) Nos.11667 and 12723 of 2010) framed guidelines for eviction of slum dwellers. Therefore, any action taken in contravention of the aforesaid judgments amounts to contemptuous. Thus it is contended that direction may be given to the authority to consider the case of the petitioner and pass appropriate order in accordance with law.

5. Mr. H.M. Dhal, learned Addl. Government Advocate appearing for the State-opposite parties contended that let the petitioner makes an application ventilating the grievance, as have been raised in the present writ petition before the authority, so that the same can be considered by the authority and pass appropriate order in accordance with law.

6. Having heard learned counsel for the parties and after going through the records, without expressing any opinion on the merits of the case, this writ petition stands disposed of permitting the petitioner to file a fresh comprehensive representation ventilating the grievance, as have been raised in the present writ petition, before the authority within a period of 10 days hence. If such application is filed, the said authority shall consider the same and pass appropriate order in accordance with law.

Issue urgent certified copy as per rules.

Ashok

(DR. B.R. SARANGI)
JUDGE