

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.7008 of 2024

Radha Kishan Singh

....
Mr. P.R. Patnaik, Advocate

Petitioner

-Versus-

Assistant Divisional Engineer (Track),
East Coast Railway, Khordha & others

....
Opposite Parties

Ms. B.Sahoo, CGC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER

22.03.2024

Order No.

- 01.
1. Heard learned counsel for the respective parties.
 2. Instant writ petition is filed by the petitioner challenging the impugned notice under Annexures-1 and 2 issued by opposite party No.1 on the grounds stated therein.
 3. Mr. Patnaik, learned counsel for the petitioner would submits that pursuant to the Court's order under Annexure-12, an application dated 21st May, 2018 i.e. Annexure-13 series for fresh lease in respect of the schedule land was moved but without taking any decision on the same, the impugned notices under Annexures-1 and 2 have been issued. It is claimed that the petitioner issued reminders under Annexure-14 series to opposite party No.2 for compliance of the Court's order i.e. Annexure-12 considering the application dated 21st May, 2018.
 4. Ms. Sahoo, learned counsel for the Railways submits that if any such application is pending decision, if the Court is inclined, necessary direction may perhaps be issued to opposite party No.2 to consider the same within a stipulated period.

5. In Course of hearing, it is brought to the notice of the Court that the Railways had executed a lease in respect of the land in question in favour of the father of the petitioner and while claiming so, a copy of the lease i.e. Annexure-3 is referred to. It is also claimed that a deposit of Rs.15,000/- towards part payment of license fee was deposited in 1994 vide Annexure-7, however, in the meantime, the lease stood expired. It is also claimed that the encroachment proceeding was initiated against the father of the petitioner in 1995 but it has become infructuous. Nevertheless, it is revealed from the record that eviction notice under Annexure-10 was issued. Notwithstanding the above facts, since there has been an order in W.P.(C) No.7056 of 2006 vide Annexure-12 and a direction to consider fresh lease in respect of the schedule land, the Court is of the view that before taking up any such action pursuant to Annexures-1 and 2, the application i.e. Annexure-13 series is required to be duly examined by opposite party No.2.

6. Hence, it is ordered.

7. In the result, the writ petition is disposed of with a direction to opposite party No.2 to consider Annexure-13 series pursuant to the Court's order under Annexure-12 and thereafter, to take a final decision on merit on any such fresh lease in favour of the petitioner in respect of the schedule land followed by an order at the earliest preferably within a period of six weeks from the date of receipt of a copy of this order and till such time, to defer the impugned action pursuant to Annexures-1 and 2.

8. Urgent certified copy of this order be issued as per rules.

Signature Not Verified

Digitally Signed
Signed by: BALARAM BEHERA
Designation: Personal Assistant
Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 27-Mar-2024 17:12:27



(R.K. Pattanaik)
Judge