IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C). No.35115 of 2026

CNR No. ODHC010782202026

Prabhas Kumar Ghanta … ***Petitioner***

Mr. M.K. Mohanty, Advocate

-versus-

State of Odisha and others … ***Opposite Parties***

Mr. J.K.K. Ray, ASC

CORAM: JUSTICE G. SATAPATHY

ORDER(ORAL):09.11.2026

Order No.

03. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).

2. The petitioner by way of this Writ Petition seeks to challenge the "Kha" form issued by OPNo.3 under Annexure-5 qua Plot No.276 of Khata No.73, Mouza-Badahindol under Redhakhol Tahasil.

3. In the course of hearing, Mr. Manoj Kumar Mohanty, learned counsel for the writ petitioner submits that the petitioner herein is running his Dhaba over Plot No.275 on an agreement executed by the recorded tenant of Plot No.275, but the Revenue Authority has issued Annexure-5 to OPNo.4, however, OPNo.4 is the brother of the petitioner and the authority concerned wants to evict the petitioner from Plot No.275 in the garb of evicting him from Government land under Plot No.276 without following due process of law, but the petitioner has no objection if an encroachment proceeding is initiated against him

for evicting him from Plot No.276, since he is never in encroachment of any Government land. Further, Mr. Mohanty submits that had the petitioner encroached any Government land, he is liable to be executed therefrom in due process of law, but since there is no measurement or demarcation of Plot No.276, it would be not in accordance with law to evict the petitioner therefrom the land under Plot No.275 and, therefore, Mr. Mohanty prays to direct the authority concerned to proceed against the petitioner in accordance with law.

4. On the other hand, Mr. Jayant Kumar Khandayat Ray, learned ASC submits that although notice has been issued against OPNo.4, but the petitioner has approached this court for the relief in this case and, therefore, the Writ Petition by the petitioner is not maintainable before this Court.

5. After having considered the rival submissions and upon perusal of record, there appears no dispute about OPNo.3 issuing notice under Annexure-5 against OPNo.4, but the written instruction which has been produced by the State Authority through learned ASC itself discloses that the petitioner is claimed to have been running a Dhaba over Plot No.275 on an agreement executed by its recorded tenant with him, but the petitioner and OPNo.4 are two brothers. It is, however, claimed in the said written instruction as produced by the learned ASC that the Encroachment

Case No.191 of 2026 has been initiated against OPNo.4 for the land over Plot No.276 under Khata No.73, Mouza-Badahindol, which land is claimed by the petitioner to be the adjacent land of Plot No.275 used for doing his business by running a Hotel. Learned counsel for the petitioner has in fact never disputed about the initiation of proceeding, rather his only contention is to proceed against the petitioner in accordance with law by having due measurement of the disputed land.

6. In the aforesaid facts and situation and taking into account the undisputed submission as advanced for the petitioner and keeping in view the written instruction as produced, since the petitioner has claimed to be running a Dhaba over Plot No.275, which is adjacent to Government land under Plot No.276 on which encroachment is claimed by OP No.3 against OP No.4, the authority concerned can proceed for removing illegal encroachment over Plot No.276, but after due demarcation and measurement. In the aforesaid facts and situation, this Court without delving into the matter on merit considers it proper to dispose of the Writ Petition by directing the authority concerned to proceed against the petitioner, if he is running a Dhaba over Plot No.276 or is found to have encroached any Government land, but such proceeding must be in accordance with law.

7. Needless to say, this Court has not observed anything on merit and the authority concerned is free to pass any order in accordance with law and any observation made by this Court in disposal of this Writ Petition may not be construed as an expression of facts on merit. **Pending IA No.19452 of 2026 stands disposed of.**

(G. Satapathy)
Judge

Subhasmita

Signature Not Verified
Digitally Signed
Signed by: SUBHASMITA DAS
Designation: Sr. Stenographer
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 10-Nov-2026 15:29:17