

(2021) 07 OHC CK 0167

In the Orissa High Court

Case No : Writ Petition (Civil) No.19251 Of 2021

Amlan Avijit Padhan And Another

APPELLANT

Vs

State Of Odisha And Other

RESPONDENT

Date of Decision : 20-07-2021

Acts Referred:

Citation : (2021) 07 OHC CK 0167

Hon'ble Judges : K.R. Mohapatra, J

Bench : Single Bench

Advocate : Niranjan Lenka, Arun Kumar Mishra

Judgement

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K.R. Mohapatra, J

1. This matter is taken up through video conferencing mode.
2. As prayed for by Mr. Lenka, learned counsel for the Petitioners, the Opposite Party No.6 is deleted from the array of Opposite Parties, as Sarpanch, Tundala Grampanchayat has already been impleaded as Opposite Party No.5.
3. Office is directed to carry out the correction accordingly.
4. The Petitioners in this writ petition seek to assail the notices dated 5th May, 2021, 13th March, 2021 and 24th March, 2021 issued by the Tundala Grama Panchayat-Opposite Party No.5 under Annexures-2, 4 and 5 for eviction of the Petitioners from the encroached land.
5. It is submitted by Mr. Lenka, learned counsel for the Petitioners that the Petitioners are the recorded tenant in respect of Khata No.231/238 in Mouza-Tundala under Kesinga Tahasil in the district of Kalahandi. After taking permission from the Gram Panchayat, they have constructed their

residential house over the same. But, the Opposite Party No.5 being inimically disposed of towards the Petitioners has issued repeated notices under

Annexures-2, 4 and 5 for their eviction from the land. It is his submission that the notices under Annexures-2, 4 and 5 do not disclose the description of

the land and the extent of alleged encroachment by the Petitioners. However, the Opposite Party No.5 is now contemplating to demolish the house of

the Petitioners standing over their recorded land. It is his submission that unless the Petitioners are protected, they along with their family will be

homeless. Hence, he prays for setting aside the notices of eviction issued by the Sarpanch, Tundala Gram Panchayat under Annexures-2, 4 and 5.

6. Mr. Mishra, learned Additional Government Advocate for the State submits that he has no instruction in the matter and prays for some time to obtain the same.

7. Taking into consideration the submission of Mr. Lenka, learned counsel for the Petitioners and on perusal of the notices annexed to the writ petition

as Annexures-2, 4 and 5, it appears that the description and extent of land allegedly encroached by the Petitioners has not been reflected in the said

notices under Annexures-2, 4 and 5. The notices only reflect that the Petitioners are encroaching upon a road of the Gram Panchayat. But, the

description of the road is not clear from the notices. As such, notices dated 5th May, 2021, 13th March, 2021 and 24th March, 2021 under Annexures-

2, 4 and 5 cannot sustain in the eyes of law due to lack of description of the land allegedly encroached by the Petitioners. The Petitioners also

challenge the authority of the Sarpanch, Tundala Gram Panchayat-Opposite Party No.5 to issue such notices.

8. In that view of the matter, this Court finds that the notices under Annexures-2, 4 and 5 are not sustainable in the eyes of law and are accordingly, quashed.

9. Quashing of Annexures-2, 4 and 5 will not preclude the Sarpanch, Tundala Gram Panchayat-Opposite Party No.5 to take action in accordance with law.

10. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout of the order

available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide

Court's Notice No.4587 dated 25th March,2020 as modified by Court's Notice No.4798 dated 15th April, 2021.