

(2023) 12 OHC CK 0062
In the Orissa High Court
Case No : W.P.(C) No.40516 Of 2023

Aswini Das @ Ashim Das

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 12-12-2023

Acts Referred:

Orissa Prevention of Land Encroachment Act, 1972 — Section 12

Citation : (2023) 12 OHC CK 0062

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

Bench : Single Bench

Advocate : R. Behera, J.P. Patra

Final Decision : Disposed Of

Judgement

R.K. Pattanaik, J

1. Heard learned counsel for the petitioner and State.
2. Instant writ petition is filed by the petitioner for a direction to the opposite parties and particularly, opposite party No.5 to settle the Govt. land in his favour in accordance with law.
3. Ms. Behera, learned counsel for the petitioner submits that the OPLE revision is pending before the learned Collector, Balasore-opposite party No.3 but in the meantime, eviction notice has been issued vide Annexure-2 by opposite party No.5, which is illegal. It is further submitted that the petitioner has moved opposite party No.5 with his grievance under Annexure-3 but the same has not yielded any result, more so when, the order in appeal has been challenged in OPLE Revision Case No.22 of 219, hence, the writ petition.
4. Mr. Patra, learned ASC for the State on the other hand submits that there is no interim order in revision by opposite party No.3, so therefore, opposite party No.5 was not at fault in issuing the eviction notice i.e. Annexure-2.
5. As it made to reveal from Annexure-1, a copy of the revision

petition filed under Section 12 of the OPLE Act, the order in Encroachment Appeal No.12 of 2016 is under challenge, the Court is of the considered view that the petitioner should be provided an opportunity to move the Revisional Authority for interim relief with a direction to opposite party No.5 to defer the action pursuant to Annexure-2 till then, so as to enable petitioner, in the meantime, to seek interim relief against the eviction notice.

6. Hence, it is ordered.

7. In the result, the writ petition stands disposed of with the liberty allowed in favour of the petitioner to approach opposite party No.3 in connection with OPLE Revision Case No.22 of 2019 and apply for interim relief which shall be within a fortnight from today and in the event, such a request is received, it shall be entertained with necessary orders passed thereon within a week thereafter and till such time, opposite party No.5 shall defer the eviction. It is further directed in the event, the above remedy is not availed of by the petitioner, opposite party No.5 shall at liberty to proceed against him in accordance with law in view of Annexure-2.

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

.....