
(2023) 12 OHC CK 0011

In the Orissa High Court

Case No : Writ Petition (C) No.38950 Of 2023

Basanta Nayak & Another

APPELLANT

Vs

State Of Odisha & Others

RESPONDENT

Date of Decision : 01-12-2023

Acts Referred:

Citation : (2023) 12 OHC CK 0011

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

Bench : Single Bench

Advocate : P.K. Satapathy, P. Panda, J.P. Patra

Final Decision : Disposed Of

Judgement

R.K. Pattanaik, J

1. Heard learned counsel for the petitioners and Mr. Patra, learned ASC for the State opposite parties.

2. Instant writ petition is filed by the petitioners challenging the initiation of the proceeding with issuance of eviction notice in L.E. Case No.135 of 2023-24 under Annexure-1 and for directing opposite party No.4 to accept the show cause filed by them for a decision thereon in accordance with law.

3. Learned counsel for the petitioners submits that the notice in Form 'Ka' under Annexure-3 was issued on 1st September, 2023, the date on which, petitioners was to appear and submit show cause on 14th September, 2023. It is further submitted that the petitioners did appear on the date fixed and prayed for time, which was not entertained, rather, notice in Form 'Kha' under Annexure-1 was issued immediately, which is not just and proper. It is submitted that the grievance of the petitioners has not been considered by opposite party No.4 before issuing Annexure-1 and hence, an opportunity should be provided for filing of show cause.

4. Mr. Patra, learned ASC for the State-opposite parties submits that since notice

in Form 'Kha' under Annexure-1 has been issued supposedly in absence of any response received from the petitioners, no illegality has been committed with issuance of Annexure-1 and therefore, it calls for no interference. It is further submitted that in any case, the petitioners may challenge the eviction notice under Annexure-1 approaching the appellate forum for a decision under the OPLE Act.

5. Having regard to the notice i.e. Annexure-3 and the appearance of the petitioners to be fixed on 14th September, 2023, the date on which, eviction notice i.e. Annexure-1 was issued which is alleged to be without providing an opportunity to show cause, the Court is of the considered view that as in the meantime, notice for eviction stands issued, the petitioners should approach the Appellate Authority challenging the same by raising such plea and grounds as available to him under law for a decision according to law.

6. Hence, it is ordered.

7. In the result, the writ petition stands disposed of with the liberty allowed in favour of the petitioners to approach opposite party No.3 as against Annexure-1 within a fortnight from today and in the event, any such appeal is filed by them within the above stipulated period, the same shall be entertained and disposed of in accordance with law considering all such plea and grounds raised and till such time, the appeal is presented, there shall be status quo maintained vis-à-vis the schedule land.

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

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