

(2022) 08 OHC CK 0194

In the Orissa High Court

Case No : Writ Petition (C) No. 9629 Of 2018 and Writ Petition (C) No. 21535 of 2015

Bharat Chandra Mohapatra

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 24-08-2022

Acts Referred:

Citation : (2022) 08 OHC CK 0194

Hon'ble Judges : Dr. S. Muralidhar, CJ;Chittaranjan Dash, J

Bench : Division Bench

Advocate : Brundaban Rout, K.K. Rout, Debakanta Mohanty

Final Decision : Disposed Of

Judgement

1. The grievance of the Petitioner in both the writ petitions regarding alleged encroachments made in land located in Bagabuda village of Kendrapara district under Kanika Tahasil to an extent of almost 10 Acres. According to the Petitioner, the land has been classified as Kisam Play Ground Gochar and Gramya Rasta and it has been encroached by Opposite Party No.5 - Sailendra Narayan College, Rajkanika in W.P.(C) No.9629 of 2018. In response to the said writ petition, a preliminary counter affidavit was filed by Opposite Party No. 5 in which inter alia it is pointed out that the Petitioner himself and some of his 'henchmen' are 'habitual land grabbers' who have tried to encroach upon the land of the College and raise a dispute regarding the boundary of the land in question.

2. It is stated that the College accordingly applied to the concerned Tahasildar for demarcation of Hal Plot No.703/888 and when no action was taken, W.P.(C) No.7935 of 2018 was filed in this Court. In the said writ petition, an order was passed on 14th May, 2018 with a direction to the Tahasildar to complete the demarcation process.

3. On his part, a compliance affidavit has been filed by the Tahasildar, Kanika listing out the steps taken to evict encroachers. In para 4 of the said affidavit,

details of the 13 cases of removal of encroachments have been set out. Eight of the said encroachers are stated to have been evicted but there was public objection in respect of the institutional encroachment as indicated in Sl.Nos.5 and 7 to 9 which is the Opposite Party No.5 institution as allied institutions.

4. Inasmuch as the allegation against the Petitioner himself is that he is an encroacher, the Court would not like to entertain the present petition at his behest. At the same time, there is obviously an issue concerning encroachments which the Tahasildar admits in his compliance affidavit filed on 27th November, 2019.

5. Consequently, a direction is issued to the Collector, Kendrapara to review all the cases of encroachment as mentioned in the above affidavit dated 27th November, 2019 of the Tahasildar and wherever the encroachment proceedings are still pending to complete them in accordance with law within a period of twelve weeks from today. The disposal of the encroachment cases need not necessarily end in eviction but where the proposal is to alienate the land in favour of an institution that be taken to its logical end in accordance with law.

6. If any of the members of the public is aggrieved by those decisions of the Collector/Tahasildar, it will be open to them to seek appropriate remedies in accordance with law. It is made clear that such grievance would be entertained only at the behest of the persons who are not themselves encroachers.

7. The writ petitions are disposed of in the above terms. An urgent certified copy of this order be issued as per rules.

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