

(2024) 02 OHC CK 0123

In the Orissa High Court

Case No : Writ Petition (C) No.3285 Of 2024

Bharat Chandra Sahoo @ Bharat Kumar Sahoo Vs State Of Odisha And Others ?

Date of Decision : 13-02-2024

Acts Referred:

Citation : (2024) 02 OHC CK 0123

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

Bench : Single Bench

Advocate : A.P. Bose, J. P. Patra

Final Decision : Disposed Of

Judgement

R.K. Pattanaik, J

1. Though the matter is not listed today, on being mentioned by learned counsel for the petitioner, it is taken up on board by a Special Notice.
2. Heard Mr. Bose, learned counsel for the petitioner and Mr. Patra, learned ASC for the State opposite parties.
3. Instant writ petition is filed by the petitioner assailing the impugned order passed in Encroachment Appeal No.01 of 2021 by learned Sub-Collector, Cuttack Sadar on the grounds stated therein.
4. The contention of Mr. Bose, learned counsel for the petitioner is that the extent of encroachment is of Ac.0.01 decimal and in respect of the subject matter in dispute, a suit in C.S. No.298 of 2022 is filed and pending disposal, wherein, the State is a party as one of the defendants. At the same time, Mr. Bose submits that the order under challenge is revisable in nature and hence, therefore, a prayer is also made to grant the liberty to approach the Revisional Authority, in case, the Court is not inclined to entertain the writ petition due to existence of such alternate remedy.
5. On the other Mr. Patra, learned ASC for the State opposite parties submits that the impugned order under Annexure-1 is of the year 2021.

6. Notwithstanding the suit in C.S. No.298 of 2022 filed by the petitioner and pending in the court of learned Civil Judge (Senior Division), 1st Court, Cuttack and without expressing anything on merits of the case, the Court is of the view that the petitioner should, however, approach the Revisional Authority as against the impugned order i.e. Annexure-1 for a decision in accordance with law and within a stipulated period and in the meantime, the work out the remedy before the concerned civil court.

7. Hence, it is ordered.

8. In the result, the writ petition stands disposed of with the liberty allowed in favour of the petitioner to approach the Revisional Authority and in the event, revision is filed within a fortnight from today, the same shall be entertained and disposed of as per and in accordance with law. It is further directed that till such time, the revision is filed within the above stipulated period, there shall be status quo maintained in respect of the schedule land.

9. Urgent certified copy of this order be issued as per rules and in course of the day.

10. A certified copy of the impugned order i.e. Annexure-1 is directed to be returned to Mr. Bose, learned counsel for the petitioner as it has been requested for.

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