
(2026) 01 OHC CK 1797

In the Orissa High Court

Case No : Writ Petition (C) No. 3540, 3550, 3598, 4511, 4058 Of 2025

Biswanath @ Bisa Gochhayat

APPELLANT

Vs

State Of Orissa And Ors

RESPONDENT

Date of Decision : 22-01-2026

Acts Referred:

Constitution Of India, 1950 — Article 14, 21, 226, 300A

Coal Bearing Areas (Acquisition And Development) Act, 1957 — Section 9

Citation : (2026) 01 OHC CK 1797

Hon'ble Judges : Dr. Sanjeeb K Panigrahi, J

Bench : Single Bench

Advocate : Rajalaxmi Biswal, Bibekananda Nayak, Haripad Mohanty

Final Decision : Dismissed

Judgement

Dr. Sanjeeb K Panigrahi, J

1. Since these Writ Petitions involve a common question of law, those are being heard and disposed of together. The facts are being delineated with reference to W.P.(C) No.3550 of 2025, which is treated as the leading case.

2. In W.P.(C) No.3550 of 2025, the petitioner seeks a direction from this Court to quash the eviction notices issued in respect of the disputed land and to restrain the authorities from dispossessing him without first extending rehabilitation and resettlement benefits, asserting violation of his constitutional rights under Articles 14 and 21.

I. FACTUAL MATRIX OF THE CASE:

3. The brief facts of the case are as follows:

(i) The petitioner, an elderly person claiming to be landless and economically weak, has approached the High Court under Articles 226 and 227 of the Constitution challenging notices of eviction issued in respect of land situated at Gopalprasad village, Khata No. 313, Plot No. 1963, Kisama Taila, near Maa

Hingula Temple, Talcher area.

(ii) The land in question forms part of the Hingula Open Cast Project of Mahanadi Coalfields Limited and was acquired under the Coal Bearing Areas Acquisition and Development Act through notifications issued between 1994 and 1997, with possession stated to have been taken over by MCL in 1999.

(iii) The petitioner asserts continuous residence in the area for nearly three generations and claims to have been traditionally engaged in seva karya at Maa Hingula Temple, including cleaning the premises and beating drums, allegedly for about fifty years.

(iv) In October and December 2024, the petitioner received multiple notices from the authorities requiring him to vacate the land on the ground that it is government land already acquired by MCL and required urgently for peripheral development works of Maa Hingula Temple, for which substantial State funds have been sanctioned.

(v) The petitioner submitted representations in response to the notices, asserting that he had neither received compensation nor rehabilitation benefits under the applicable Rehabilitation and Resettlement policies and seeking protection from eviction without rehabilitation.

(vi) Counter affidavits have been filed by the State authorities and MCL disputing the petitioner's claims, asserting that the land is government land, that acquisition proceedings were completed decades earlier, and that the petitioner is an unauthorized encroacher with no legal entitlement to compensation or rehabilitation.

II. SUBMISSIONS ON BEHALF OF THE PETITIONER:

4. Learned counsel for the Petitioner earnestly made the following submissions in support of his contentions:

(i) The petitioner contends that he and his forefathers have been residing near Maa Hingula Temple for about three generations and have been rendering continuous traditional services to the temple, thereby establishing long-standing residence and livelihood dependence on the area.

(ii) It is asserted that although the surrounding village area was acquired for the Hingula OCP project, the petitioner was neither paid compensation nor provided any rehabilitation or resettlement despite being affected by the acquisition and displacement.

(iii) The petitioner alleges that eviction notices have been issued mechanically and arbitrarily, without consideration of his age, poverty, landlessness, traditional occupation, and representations seeking rehabilitation under government R and R policies.

(iv) It is claimed that the impugned notices violate Article 14 due to arbitrariness

and Article 21 due to deprivation of livelihood and shelter without due process or rehabilitation, particularly when the displacement is for a public project.

(v) The petitioner maintains that the authorities have remained silent on his grievances and are proceeding with eviction in a coercive manner, leaving him homeless and without any alternative means of survival.

III. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTIES:

5. The Learned Counsel for the Opposite Parties earnestly made the following submissions in support of his contentions:

(i) The opposite parties contend that the writ petition is not maintainable as it involves disputed questions of fact regarding possession, eligibility, and entitlement, and further on the ground that there has been suppression of material facts since an identical writ petition has been filed by the petitioner's son concerning the same land.

(ii) It is asserted that the land under Khata No. 313 is government land that was validly acquired by MCL in the first phase of acquisition for Hingula OCP, with all statutory notifications issued, awards prepared, compensation paid to eligible awardees, and possession taken over long back.

(iii) The authorities deny that the petitioner or his forefathers were in lawful possession prior to acquisition and contend that there is no documentary evidence such as ROR entries or official records showing residence or occupation before the cut-off date for acquisition.

(iv) The opposite parties maintain that the petitioner is an unauthorized encroacher who has constructed structures after acquisition and is therefore not eligible for any compensation or rehabilitation benefits under the R and R policy.

(v) It is contended that the land is urgently required for peripheral development works of Maa Hingula Temple, including public facilities sanctioned by the State Government, and that the petitioner's continued occupation is obstructing public development, justifying lawful eviction through the impugned notices.

IV. JUDGMENT AND ANALYSIS:

6. Heard Learned Counsel for the parties and perused the documents placed before this Court.

7. The petitioner's locus and bona fides in invoking this Court's writ jurisdiction are seriously in doubt. It transpires that the petitioner did not disclose that an identical writ petition has been filed by his son regarding the same land and grievance. Such suppression of a material fact strikes at the root of maintainability.

8. The judicial precedents have consistently held that suppression of material fact by a litigant disqualifies them from obtaining any relief. Approaching the Court with unclean hands and multiple proceedings amounts to an abuse of

process. In fact, the Supreme Court in the case of SJS Business Enterprises (P) Ltd. v. State of Bihar[AIR 2004 SUPREME COURT 2421]held as follows:

"13. As a general rule, suppression of a material fact by a litigant disqualifies such litigant from obtaining any relief. This rule has been evolved out of the need of the courts to deter a litigant from abusing the process of court by deceiving it. But the suppressed fact must be a material one in the sense that had it not been suppressed it would have had an effect on the merits of the case. It must be a matter which was material for the consideration of the court, whatever view the court may have taken..."

9. On this ground alone, the writ petition is liable to be dismissed in limine. Nonetheless, since arguments were addressed on merits, this Court proceeds to examine the petitioner's claims substantively as well.

10. The record shows that Khata No. 313, Plot No. 1963 of village Gopalprasad was acquired in the 1990s under the Coal Bearing Areas (Acquisition and Development) Act, 1957 for the Hingula OCP project. Upon the Section 9 declaration under that Act, the land vested absolutely in the Central Government, and possession was taken in 1999 by Mahanadi Coalfields Ltd (MCL). All right, title and interest of private persons in the notified area were thereby extinguished.

11. The petitioner has no recorded title or tenancy in the revenue or temple records; indeed, he does not dispute that the land is Government/MCL property. His assertion of continuous residence "for three generations" remains unsubstantiated by any documentary evidence. In the absence of any lawful right or legal possession, the petitioner's status is essentially that of an unauthorized occupant on public land since long after acquisition.

12. It is well-settled that long duration of illegal occupation confers no legality, mere passage of time or possession of identity documents showing residence does not vest any right or create any adverse title against the true owner. In fact, the Supreme Court in the case of Jagpal Singh v. State of Punjab[AIR 2011 SUPREME COURT 1123] has emphatically held that encroachers or trespassers cannot claim a legal right to continue on public property, and no equity arises in their favour merely because they have erected structures or stayed for many years. The Court held as follows:

"Long duration of such illegal occupation or huge expenditure in making constructions thereon or political connections must not be treated as a justification for condoning this illegal act or for regularizing the illegal possession. Regularization should only be permitted in exceptional cases e.g. where lease has been granted under some Government notification to landless labourers or members of Scheduled Castes/Scheduled Tribes, or where there is already a school, dispensary or other public utility on the land."

13. Thus, the petitioner cannot seek to vitalize an illegal occupation into a legal

entitlement by citing decades of stay.

14. The eviction notices impugned are, on their face, an exercise of lawful authority. The opposite parties have proceeded against the petitioner as an encroacher on Government land required for a public development project. There is no allegation that the eviction drive targets the petitioner selectively or without jurisdiction. The notices were issued after due sanction of a peripheral development plan for Maa Hingula Temple, for which substantial public funds have been allocated. The petitioner was given notice and an opportunity to represent his case, which he admittedly did by submitting representations.

15. The fundamental requirement of natural justice, a notice and hearing, has thus been met. The petitioner's grievance is that the eviction is arbitrary and violates his right to livelihood and shelter since no rehabilitation is offered. However, the material on record does not support any arbitrariness or discrimination. The petitioner is being treated in the same manner as any other unauthorized occupant; he has not shown that others similarly situated were spared or compensated while only he is picked for eviction. In fact, the urgency of clearing encroachments for the temple's development indicates a public interest objective, leaving little scope to allege mala fides or unequal treatment. Therefore, the Article 14 challenge on grounds of arbitrariness is unsustainable.

16. The contention based on Article 21 also does not carry the petitioner's case far. It is undeniable that the right to life encompasses the right to shelter and livelihood as basic human rights. This Court is not insensitive to the fact that eviction will displace the petitioner from his shelter of many years.

17. Nevertheless, it is equally well-settled that the right to shelter does not translate into a right to squat on public land in perpetuity. When a State acquisition or development project is implemented in accordance with law, an affected person cannot invoke Article 21 to veto the project altogether.

18. The Supreme Court, in this regard, has held the following in the case of *Narmada Bachao Andolan v. Union of India*[(2000) 10 SCC 664]:

"62. The displacement of the tribals and other persons would not per se result in the violation of their fundamental or other rights. The effect is to see that on their rehabilitation at new locations they are better off than what they were. At the rehabilitation sites they will have more and better amenities than those they enjoyed in their tribal hamlets. The gradual assimilation in the mainstream of the society will lead to betterment and progress."

19. Article 300A of the Constitution guarantees that no person is to be deprived of property save by authority of law, and here the deprivation was effectuated by a legal acquisition process decades ago. Thus, the petitioner's ousting from Government land pursuant to a valid acquisition and public project cannot be characterized as unconstitutional, provided due process is observed. The record reflects due process via notices; and no fundamental right to occupy acquired

land indefinitely can be claimed by the petitioner.

20. The pivotal issue then is whether the petitioner is entitled to any relief in the nature of rehabilitation or compensation, given his assertion that he received neither when the area was acquired. In principle, displaced persons should be provided resettlement and rehabilitation as per the prevailing policy, as a matter of fairness and good governance.

21. The Supreme Court in the case of *State of MP v. Narmada Bachao Andolan* [(2011) 7 SCC 639] stressed that rehabilitation is meant for those rendered destitute by acquisition, authorities must explore avenues of rehabilitation by way of employment, housing, or identification of alternate land for such persons. At the same time, the law stops short of making rehabilitation an absolute right enforceable by writ in every case.

The Court held as follows:

"26. It is desirable for the authority concerned to ensure that as far as practicable persons who had been living and carrying on business or other activity on the land acquired, if they so desire, and are willing to purchase and comply with any requirement of the authority or the local body, be given a piece of land on the terms settled with due regard to the price at which the land has been acquired from them. However, the State Government cannot be compelled to provide alternate accommodation to the oustees and it is for the authority concerned to consider the desirability and feasibility of providing alternative land considering the facts and circumstances of each case."

22. Rehabilitation benefits flow from Government policies and schemes, not directly from the Constitution. Here, the Odisha Resettlement and Rehabilitation Policy, 2006 (and earlier policies) do extend certain benefits, such as allotment of house-sites, cash assistance, or employment, to "displaced families" of projects. However, to claim under these policies, the petitioner must fall within their ambit. For example, as a recorded resident or dependent in the project area at the relevant cut-off date.

23. The opposite parties categorically assert that the petitioner was not an identified project displaced person at the time of acquisition, he was not in the list of awardees or beneficiaries because his occupation was not officially recognized. The petitioner has brought forth no evidence that he or his forefathers were acknowledged in any survey or award related to the Hingula OCP acquisition. Thus, on the records, he cannot be treated as a "displaced family" under the R&R policy, but rather as an encroacher who settled (or remained) on the land after it vested in the State.

24. In the circumstances, the Court finds no legal mandate to postpone or condition the petitioner's eviction on the grant of rehabilitation. Unlike cases where land-losers or genuine oustees were not paid due compensation (in which courts have intervened to secure their entitlements), the petitioner's claim is of a

different nature: he admittedly has no title, and essentially seeks a benevolent protection from eviction on account of his poverty and long association with the place. While the Court is sympathetic to the petitioner's plight as an elderly, landless person, it cannot grant relief contrary to law or outside the policy framework.

25. Protection of livelihood under Article 21 does not mean that an encroacher gets a perpetual right to occupy public land, especially when that land is urgently needed for a legitimate public purpose. Therefore, the petitioner's prayer to quash the eviction notices or to direct rehabilitation as a pre-condition to eviction cannot be granted by this Court in exercise of its limited writ jurisdiction. No prima facie illegality or constitutional infirmity in the eviction proceedings has been demonstrated.

V. CONCLUSION:

26. For the reasons recorded hereinabove, this Court finds that the writ petition is vitiated by suppression of material facts and, even otherwise, is devoid of merit on facts and law. The petitioner has failed to establish any legal right, entitlement, or enforceable claim either to continue in occupation of the acquired land or to insist upon rehabilitation as a condition precedent to eviction. The impugned eviction notices are found to have been issued in exercise of lawful authority, in furtherance of a legitimate public purpose, and in compliance with the requirements of due process. No violation of Articles 14, 21, or 300A of the Constitution is made out.

27. Consequently, the Writ Petition stands dismissed.

28. Accordingly, all the connected Writ Petitions are dismissed.

29. Interim order, if any, passed earlier in any of the above-mentioned Writ Petitions stands vacated.