
(2021) 12 OHC CK 0121
In the Orissa High Court
Case No : Writ Petition (C) No. 39673 Of 2021

Gopal Behera

APPELLANT

Vs

State Of Odisha & Others

RESPONDENT

Date of Decision : 17-12-2021

Acts Referred:

Odisha Public Premises (Eviction of Unauthorized Occupants) Act, 1972 — Section 5(1)

Citation : (2021) 12 OHC CK 0121

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

Bench : Single Bench

Advocate : Soumya Mishra, Arun Kumar Mishra

Final Decision : Disposed Of

Judgement

K.R. Mohapatra, J

1. This matter is taken up through hybrid mode.
2. Petitioner in this writ petition seeks to assail notice dated 3rd December, 2021 (Annexure-5) issued by Tahasildar, Jharbandh-Opposite Party No.2 in Form-'B' under Sub-Section (1) of Section 5 of the Odisha Public Premises (Eviction of Unauthorized Occupants) Act, 1972 (for short 'the Act').
3. Mr. Mishra, learned counsel for the Petitioner submits that without initiating any proceeding under the provisions of the Act, the Estate Officer-cum-Tahasildar, Jharbandh, straightway issued eviction notice on 3rd December, 2021 asking the Petitioner to vacate the land in question within a period of fifteen days. He, therefore, prays for setting aside the impugned notice under Annexure-5 and remit the matter to the Tahasildar, Jharbandh to afford opportunity to the Petitioner to file show cause and defend his case.
4. Mr. Mishra, learned AGA submits that he has no instruction in the matter. However, it appears that the Petitioner was not given opportunity of hearing in the matter.

5. Taking into consideration the submissions of learned counsel for the parties and on perusal of notice under Annexure-5, it is apparent that neither the case number nor the particulars of land from which the Petitioner is intended to be evicted has been reflected in the said notice. It further appears Tahasildar, Jharbandh without applying mind has issued impugned notice in Form-'B' under Annexure-5.

6. In that view of the matter, the notice dated 3rd December, 2021 under Annexure-5 issued to the Petitioner by Tahasildar, Jharbandh is set aside. However, Tahasildar, Jharbandh is free to initiate proceeding and proceed in accordance with the provisions of the Act providing opportunity to the Petitioner to file show cause reply and participate in the hearing.

7. With the observation and direction, as aforesaid, the writ petition is disposed of.

Issue urgent certified copy of the order on proper application.