
(2023) 02 OHC CK 0207
In the Orissa High Court
Case No : Writ Petition (C) No.33406 Of 2022

Guna Sahu And Others

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 27-02-2023

Acts Referred:

Odisha Prevention of Land Encroachment Act, 1972 — Section 8A

Citation : (2023) 02 OHC CK 0207

Hon'ble Judges : Arindam Sinha, J;S. K. Mishra, J

Bench : Division Bench

Advocate : B. Rout, A.K. Nanda

Final Decision : Disposed Of

Judgement

1. The writ petition was moved before us on 20th February, 2023. Mr. Rout, learned advocate appearing on behalf of petitioners had submitted, his clients are street vendors faced with eviction under impugned notices.

2. On perusal of impugned notices addressed individually to both petitioners, we had found reference to WP(C) no.5071 of 2019 and WP(C) no.25303 of 2014. We by our order dated 20th February, 2023, directed production of the two writ petitions.

3. In WP(C) no.25303 of 2014, several persons had joined as petitioners challenging notice dated 16th December, 2014 issued by the Revenue Inspector. The writ petition was disposed of by the learned single Judge on order dated 24th December, 2014. We reproduce below text of the order.

" Heard learned counsel for the petitioners.

The petitioners have limited grievance that lands has been taken away for construction of road under Prime Minister Gramya Sarak Yojana but without any acquisition process and paying any compensation in respect of their land.

Considering the submissions of the petitioners, this Court disposes this writ

petition with a direction to the petitioners to file appropriate representation before the Collector, Khurda-opposite party no.2 for taking a decision in the matter on the question of compensation. In the event, petitioners file a representation within a period of two weeks from today, the same shall be considered by the Collector-opposite party no.2 giving opportunity of hearing to the petitioners concerned. Let a decision as directed hereinabove be taken within a period of six weeks from the date of submissions of the representation.

Petitioners are directed to file representation enclosing a certified copy of this order before the opposite party no.2 within a period of one week from today.

The writ petition is disposed of with the limited direction given hereinabove.

Issue urgent certified copy of this order on proper application.”

Subsequent WP(C) no.5071 of 2019 was filed by two persons seeking implementation of order dated 29th May, 2015. The writ petition was disposed of by the learned single Judge on order dated 16th May, 2019, directing working out by taking steps within a period of six weeks for implementing said order dated 29th May, 2015. The order was made by the Collector and District Magistrate saying that the three encroachers shall have to be evicted from encroached land, for construction of village road and no compensation will be allowed. We have ascertained that present petitioners are in no way connected with the earlier writ petitions.

4. Mr. Nanda, learned advocate, Additional Government Advocate appears on behalf of State and submits, petitioners have efficacious alternative statutory remedy available under section 8-A of Odisha Prevention of Land Encroachment Act, 1972 since, petitioners have claimed to be in possession for more than 30 years.

5. Petitioners have three weeks from date to apply under the Act of 1972, for settlement of the land, in which they are encroachers. As such, status quo be maintained till 21st March, 2023. Petitioners must obtain future interim protection, by availing statutory alternative remedy.

6. Records in WP(C) no.5071 of 2019 and WP(C) No.25303 of 2014 be returned to the department.

7. With above directions the writ petition is disposed of.

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