
(2021) 09 OHC CK 0080

In the Orissa High Court

Case No : Writ Petition (Civil) No. 23741 Of 2021

Kapila Pradhan And Others

APPELLANT

Vs

Tahasildar, Nimapara And Another

RESPONDENT

Date of Decision : 20-09-2021

Acts Referred:

Citation : (2021) 09 OHC CK 0080

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

Bench : Single Bench

Advocate : Sambeet Pattanayak, Tapas Kumar Praharaj

Final Decision : Disposed Of

Judgement

K.R. Mohapatra, J

1. This matter is taken up through hybrid mode.
2. The prayer of the Petitioners in this writ petition is to restrain Tahasildar, Nimapara-Opposite Party No.1 from proceeding with Demarcation Case No.2 of 2021.
3. It is submitted by learned counsel for the Petitioner that consolidation operation is going on in the village in which the land in question situates. Objection to that effect has been filed by the Petitioners pursuant to notice under Annexure-11 issued by Tahasildar, Nimapara. But the Tahasildar, without considering the objection, is proceeding further and kept the matter tomorrow, i.e., 21st September, 2021 for demarcation. In that view of the matter, he prays for the aforesaid relief.
4. Mr.Praharaj, learned Standing Counsel submits that the demarcation is being undertaken pursuant to direction of this Court in W.P.(C) No.17188 of 2021. If the Petitioners have filed the objection, the same shall be considered in accordance with law.

5. Mr. Pattanayak, learned counsel for the Petitioners, however, submits that this Court has never directed to demarcate the land in question; rather vide order dated 9th June, 2021 in W.P.(C) No.17188 of 2021, this Court had directed to dispose of the demarcation case. For ready reference, the relevant portion of order dated 9th June, 2021 is quoted below.

"Considering the submission made, this Court disposes of the Writ Petition observing in the event Demarcation Case No.02/2021 is pending before the Tahasildar, Nimapara, O.P.2, the same shall be concluded within a period of two months from the date of communication of this order along with copy of the Writ Petition by the petitioner but however involving any persons likely to be affected."

6. Taking into consideration the rival contentions of the parties, this Court is of the considered view that before proceeding with the demarcation of the land in question, the Tahasildar, Nimapara should consider the objection of the Petitioners.

7. Accordingly, it is observed that the Tahasildar, Nimapara-Opposite Party No.1 before proceeding further in Demarcation Case No.2 of 2021 shall consider the objection, if any filed by the Petitioner on its own merit.

8. With the aforesaid observation, the writ petition is disposed of.

Issue urgent certified copy of the order on proper application.

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