

(2023) 03 OHC CK 0217

In the Orissa High Court

Case No : Writ Petition (C) No.34114 Of 2022

Madhusudan Mohapatra

APPELLANT

Vs

Brundaban Panda And Others

RESPONDENT

Date of Decision : 27-03-2023

Acts Referred:

Odisha Hindu Religious Endowments Act, 1951 — Section 25

Citation : (2023) 03 OHC CK 0217

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

Bench : Division Bench

Advocate : M. K. Mishra, P. Naidu

Final Decision : Disposed Of

Judgement

1. Mr. Mishra, learned senior advocate appears on behalf of petitioner and submits, lands made subject matter of OA no.11 of 2022, filed in the Court of Commissioner of Endowments under section 25 in Odisha Hindu Religious Endowments Act, 1951, do not belong to a public religious institution. The lands belong to a private deity. His client has interest in them and has been wrongfully restrained by order of status-quo, obtained by private opposite parties. Hence, impugned are orders dated 2nd July, 2021 of initial order of status-quo passed by the Commissioner, followed by order dated 24th August, 2022, rejecting the recall application. He submits further, it will appear on face of second impugned order that the Commissioner found on facts that the lands, made subject matter of the OA case, belongs to private deity, yet maintained the status-quo order.

2. Ms. Naidu, learned advocate appears on behalf of the Commissioner. We have not yet made direction for issuance of notice on private opposite parties, who are petitioners in the OA case.

3. Perused impugned orders and particularly order dated 24th August, 2022. It is true that the Commissioner found on facts, reference to lands being subject matter of the OA belonging to a public religious institution as in order dated 2nd

July, 2021, was not correct. However, the order of status-quo was maintained. A passage from said impugned order is extracted and reproduced below.

"... .. It is specific allegation of the petitioners that the OP is in unauthorized occupation of the scheduled land belonging to the case deity whereas the OP denies such allegations. Further he has denied the allegations that he is preparing to rise construction over the case land. If this is the position, the order passed by this court on 2.7.21 directing both the parties not to change the nature and character of the case land during pendency U/s. 25 of the OHRE Act, 1951 is found to be the most appropriate order which could have been passed in the available facts and circumstances in order to protect the property of the deity, which is prime duty and responsibility of the court of Endowments; the deity being a perpetual minor. In view of the stand taken by the OP that he is neither in possession nor intending to undertake any construction there over, as rightly submitted by the Advocate for the Petitioners, the interest of the OP cannot be said to have been affected in any manner. If at all it would be found after the trial that the Petitioners due to previous grudge against the OP, as alleged by him, has filed this case then the court will take care of such a situation by passing appropriate order for redressal of the grievance of the OP."

(emphasis supplied)

4. We have perused the interim application made in the OA case. Private opposite parties had clearly alleged in paragraphs 3, 4 and 5 that petitioner had already started construction of, inter alia, 11 nos. of pucca structures over plot no.248. We reproduce below paragraphs 6, 7 , 8 and 9 from the objection of petitioner.

"6. That the averments made in para-2 regarding the situation of schedule land which is adjacent land to the Bijesthali is blatant lie. In fact the deity is situated in ward no.12 which is known as Chasa Sahi wherein the suit land is situated at a distance of 2 ½ kms from the deity.

7. That the facts stated in para-3 is not admitted and the OP is neither in possession or no way connected to the suit land.

8. That the contents in para-4 regarding inspite of objection raised by the petitioner, the OP is going ahead of construction is not admitted.

9. That the fact stated in para-5 is not true and the petitioners have developed a cock and bull story in order to grab relief from the Hon'ble Court. "

(emphasis supplied)

In view of above quoted pleadings of the parties we do not find any material irregularity in impugned orders. Nevertheless, the Commissioner having had held that the lands being subject matter of the OA are lands belonging to private deity, we direct disposal of the OA case, within eight weeks.

5. The writ petition is disposed of.

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