
(2022) 11 OHC CK 0262
In the Orissa High Court
Case No : Writ Petition (C) No. 6725 Of 2022

Narayan Madhei	Vs	APPELLANT
State Of Odisha And Others		RESPONDENT

Date of Decision : 30-11-2022

Acts Referred:

Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 — Section 6(2)

Citation : (2022) 11 OHC CK 0262

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

Bench : Single Bench

Advocate : B.Panda, Swayambhu Mishra

Final Decision : Dismissed

Judgement

K.R. Mohapatra, J

- 1.This matter is taken up through Hybrid mode.
2. Hard copy of the counter affidavit filed by Opposite Party Nos.4 and 6 in Court is taken on record.
3. Petitioner in this writ petition seeks to assail the order dated 16th September, 2021 (Annexure-6) passed by Collector, Mayurbhanj-Opposite Party No.4 and also to cancel the allotment of land in Gramya Jungle to Opposite Party No.7-Pandu Soren.
4. Mr. Panda, learned counsel for the Petitioner submits that Pandu Soren is a government servant and he is not residing in the village. He is also not a native of the said village. As such, allotment of land under the provisions of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (for short, 'the Act') is not sustainable in the eyes of law. It is submitted by learned counsel for the Petitioner that assailing the said settlement, the Petitioner had also approached this Court in W.P.(C) No.16132 of 2021, which

was disposed of vide order dated 9th June, 2021 holding as under:-

"Considering the limited request involved herein and without expressing any opinion on the merits of the case, this Court disposes of the Writ Petition directing the Collector, Mayurbhanj, O.P.3 to look into the grievance of the petitioner vide Annexure-5 and take decision as appropriate by completing the entire exercise within a period of two months from the date of communication of this order along with copy of the Writ Petition by the petitioner."

Accordingly, Collector, Mayurbhanj took up the matter and rejected the representation of the Petitioner. It is his submission that Collector, Mayurbhanj has not applied its mind to the fact and law involved in the case. Further, Opposite Party No.7 being an outsider and a government servant is not entitled to allotment of such land in his favour under the Act.

5. Mr. Mishra, learned ASC referring to counter affidavit filed by Opposite Party Nos.4 and 6, submits that Collector, Mayurbhanj has no role to pay in settlement of forest land under the provisions of the Act. It is as per the resolution of the Grama Sabha, a forest land is being settled under Section 6 of the Act. Further, the person aggrieved of such resolution has a remedy under Section 6(2) of the Act may prefer a petition to the Sub-Divisional Level Committee constituted under sub-section (3) and the Sub-Divisional Level Committee shall consider and dispose of such petition, provided that every such petition shall be preferred within sixty days from the date of passing of the resolution by the Gram Sabha and further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case. As the Petitioner has statutory remedy to assail the settlement of forest land in favour of Opposite Party No.7 the writ petition is not maintainable.

6. Considering the submissions of learned counsel for the parties, this Court finds that on the request of the Petitioner, this Court, vide order dated 9th June, 2021 in W.P.(C) No.16132 of 2021, directed Collector, Mayurbhanj to take a decision on the representation of the Petitioner. Since the land has been settled as per the resolution of the Grama Sabha, the Petitioner has remedy under Section 6(2) of the Act to assail the same. As such, this Court is not inclined to entertain the writ petition.

7. Accordingly, the writ petition stands dismissed. However, dismissal of this writ petition shall not preclude the Petitioner to avail the statutory remedy in accordance with law, if available to the Petitioner.

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