

(2021) 06 OHC CK 0079

In the Orissa High Court

Case No : Writ Petition (Civil) No. 10173 Of 2021

Padma Charan Nayak

APPELLANT

Vs

State of Odisha

RESPONDENT

Date of Decision : 23-06-2021

Acts Referred:

Orissa Prevention of Land Encroachment Act, 1972 — Section 7, 8, 8(A)

Citation : (2021) 06 OHC CK 0079

Hon'ble Judges : C. R. Dash, J

Bench : Single Bench

Advocate : Prahallada Sahu, G.N.Sahu, S.K.Nayak, N.Sahu, S.K.Nayak

Final Decision : Disposed Of

Judgement

C. R. Dash, J

This matter is taken up by virtual mode.

Heard.

The petitioner has filed this writ application with a prayer to record the Government land vide Plot No.719 under Khata No.96 measuring an area

Ac.0.052 decimal out of Ac.1.619 decimal, Mouza- Tiparigan in the district of Kandhamal.

In this regard, the petitioner is stated to have filed a representation vide Annexure- 8 before the Tahasildar, Tikabali- Opposite Party No.4.

Mr. R.P. Mohapatra, learned Additional Government Advocate submits that the final order having been passed and fine having been imposed against

the petitioner in Encroachment Case No.17 of 2018, the representation vide Annexure-8 is not maintainable now. It is further submitted by Mr.

Mohapatra that the Tahasildar, Tikabali - Opposite Party No.4, if thought proper,

could have referred the matter to the Sub-Collector for settlement of land and in that event, the Sub-Collector would have acted U/S. 8(A) of the OPLE Act. That having not been done and there being no provision of review, the present representation U/S. 8 is not maintainable.

It is submitted by learned counsel for the petitioner that the petitioner is a landless person and he is in possession of the land since 30 years.

In view of such fact, the Tahasildar, Tikabali- Opposite Party No.4 should have at least recorded a finding as to why he did not think it proper to settle

the land in favour of the petitioner U/S. 7 of the OPLE Act.

In view of the averments made by the petitioner, such a finding by the Tahasildar, Tikabali was mandatory.

Regard being had to such facts and submissions, the writ application is disposed of directing the Tahasildar, Tikabali- Opposite Party No.4 to recall the

final order passed in OPLE Case No.17 of 2018 and take up the representation vide Annexure- 8 as a petition filed U/S. 7 of the OPLE Act. The

Tahasildar, Tikabali- Opposite Party No.4 is further directed to dispose of the matter in accordance with law, by giving a specific finding as to why the

petitioner is not entitled to be settled with the land U/S. 7 of the Act.

The entire exercise be completed within a period of three months from the date of receipt of a certified copy or true soft copy of this order available in

the Orissa High Court website.

The petitioner is directed to supply a copy of the writ application containing all the Annexures to the Opposite party No.4 for convenience & reference

to Annexure â?" 8.

The writ application is accordingly disposed of.

As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout of the order available

in the High Courtâ??s website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Courtâ??s

Notice No.4587 dated 25th March, 2020 as modified by Courtâ??s Notice No.4798 dated 15th April, 2021.