

(2024) 06 OHC CK 0055

In the Orissa High Court

Case No : CMP No.649 Of 2024 And I.A. No.704 Of 2024

Padma Nayak

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 12-06-2024

Acts Referred:

Citation : (2024) 06 OHC CK 0055

Hon'ble Judges : M.S. Raman, J

Bench : Single Bench

Advocate : D.K. Mohapatra, D.K. Nanda

Final Decision : Disposed Of

Judgement

M.S. Raman, J

1. This matter is taken up through Hybrid Mode.

2. Learned counsel for the petitioner-plaintiff submitted that pursuant to order dated 02.08.2017 passed in W.P.(C) No.7005 of 2003, the Director of Estate-cum-Ex-Officio, Additional Secretary to Government of Odisha disposed of the application pending before him for settlement of land under the Odisha Government Land Settlement Act, 1962. Against such rejection, writ petition bearing W.P.(C) No.26851 of 2023 was preferred, which came to be disposed of by this Court with observation to seek appropriate remedy. Therefore, suit bearing C.S. No.1735 of 2023 has been filed. It is also a fact that a proceeding under the Odisha Public Premises (Eviction of Unauthorised Occupants) Act, 1972, being OPP(L) Case No.03 of 2001, was initiated.

He further submitted that though the petitioner has been in possession of the suit schedule property in question since 1965, the District Judge, Khurda at Bhubaneswar while disposing of F.A.O. No.14 of 2024 (arising out of order dated 05.01.2024 passed by the learned Senior Civil Judge, Bhubaneswar in I.A. No.01 of 2023, relating to C.S. No.1735 of 2023) vide judgment dated 28.03.2024 has

recorded erroneous findings to the effect that the petitioner-appellant therein "has been evicted from the suit land" by virtue of an order dated 21.07.2004 passed in the aforesaid OPP(L) Case No.03 of 2001.

3. Learned Additional Government Advocate appearing for opposite party nos.1 & 2 brought to the notice of this Court that in the impugned judgment dated 28.03.2024, it has been clearly stated that by virtue of Notification No.23261 dated 04.11.2016, the property stands transferred by the Government to Bhubaneswar Development Authority. He further submitted that in view of clear finding recorded, the relief claimed by the petitioner cannot be granted and this matter requires consideration.

4. Issue notice to the opposite parties both in main case and interlocutory application.

5. Since Mr. A.K. Nanda, learned Additional Government Advocate appears and waives notice on behalf of opposite party nos.1 & 2, let requisite numbers of copies of this petition be served on him within three working days so as to enable him to file response.

6. Notice be issued to opposite party Nos.3 & 4 by Registered Post/Speed Post with A.D. fixing a short returnable date, requisites for which shall be filed within seven working days.

7. List this matter before the assigned Bench after vacation.

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