
(2022) 06 OHC CK 0043
In the Orissa High Court
Case No : Writ Petition (C) No. 13882 Of 2022

Pitambar Jena & Another

APPELLANT

Vs

State Of Odisha & Others

RESPONDENT

Date of Decision : 17-06-2022

Acts Referred:

Citation : (2022) 06 OHC CK 0043

Hon'ble Judges : Sashikanta Mishra, J

Bench : Single Bench

Advocate : B.K. Behera 1, S. Jena

Final Decision : Disposed Of

Judgement

Sashikanta Mishra, J

1. This matter is taken up through hybrid mode.
2. The petitioners have approached this Court with the following prayer;

"Under the afore stated circumstances more fully narrated here in above the petitioner most humbly prays that this Hon'ble Court may graciously be pleased to allow the writ application, issue rule of NISI calling upon the Opp.Party to show cause :-

A. As to why the opp. Parties more particularly opp. Party no.2 shall not be directed to make proper inquires against the illegal and malafide activities of the opp.party nos. 5 and 6 regarding illegal constructions of boundary wall of the school forcefully upon the petitioners recorded land on plot no. 1379 and 2018 under Khata No. 218 without informing the petitioner under Annexure-3, and,

B. As to why the opp.Parties more particularly opp.Party nos. 5 & 6 shall not be restrained to make the illegal construction of boundary wall of the school forcefully upon the petitioners recorded land on plot no. 1379 and 2018 under Khata No. 218 without informing the petitioner, and

C. And as to pass such other order or orders, direction/directions as this Hon'ble Court deems fit and proper.

And on their failure to show cause or showing in sufficient cause, this Hon'ble Court be pleased to make the said RULE absolute by way of issuance of appropriate writ or writs, order or orders in the facts and circumstances of the present case."

3. It appears that the petitioners have also approached the competent Civil Court, i.e., Civil Judge (Sr. Division), Bhadrak in C.S. No.200 of 2022 for the self same relief, in which an Interlocutory Application being I.A. No. 152 of 2022 has been filed.

4. It is submitted that the I.A. was filed during the ongoing summer vacation as the opposite parties are forcefully constructing boundary wall around the School including on a portion of the petitioners' property. Since the matter could not be taken up during vacation, the petitioners have approached this Court.

5. Having regard to the fact that a Civil Suit is pending before the competent Court of law in which an I.A. for appropriate orders is pending, without expressing any opinion on the merits of the case, the writ petition is disposed of with a direction to the Court below to dispose of the I.A. as early as possible .

6. It is also open to the petitioners to move the Court below to prepone the date fixed for hearing of the I.A., if need be. In the event such an application is filed, the same shall be considered in view of the urgency of the matter.

7. Issue urgent certified copy as per rules.

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