

**(2025) 04 OHC CK 1434**  
**In the Orissa High Court**  
**Case No : Writ Petition (C) No.15885 Of 2023**

Prafulla Kumar Sarangi And Others

APPELLANT

Vs

State Of Odisha & Others Vs

RESPONDENT

**Date of Decision : 03-04-2025**

**Acts Referred:**

Constitution of India, 1950 — Article 226, 227  
Code of Civil Procedure, 1908 — Section 80  
Orissa Housing Board Act, 1968 — Section 60

**Citation : (2025) 04 OHC CK 1434**

**Hon'ble Judges : A.C. Behera, J**

**Bench : Single Bench**

**Advocate : G. Mukherji, S. Acharya, D. Mohapatra, P.K. Singhdeo, Jaydeep Pal, P.K. Mohanty**

**Final Decision : Dismissed**

## Judgement

A.C. Behera, J

1. This writ petition under Article 226 and 227 of the Constitution of India, 1950 has been filed by the petitioners praying for a direction to the O.P. No.2 (Odisha State Housing Board) to assign proper reason, why the O.P. No.2 is not following the order dated 08.09.2021 passed by this Court in W.P.(C) No.27497 of 2021 and to direct the O.P. No.2 to settle and keep Plot No.218(P) under Khata No.2 at Basanti Colony, Rourkela as common land for the use of the residents of Basanti Colony, Rourkela as per the mandate of town planning regulation and not to change the nature and character of the said property in any manner and not to encumber the same through sale/lease.

2. The case of the petitioners against the O.Ps is that, they (petitioners) are the residents of Basanti Colony, Rourkela and they are the lessees of their respective houses in the said Basanti Colony, Rourkela under the OSHB (O.P. No.2) prior to 1980.

On the basis of the notification issued by the O.P. No.3 on behalf of the O.P. No.2, a part of the Plot No.218(P) under Khata No.2, Mouza-Rourkela Town, Unit No.38, adjacent to the Quarter No.EM-107 inside Basanti Colony, Rourkela was kept vacant for public purpose i.e. for its utilization as playground, morning, evening walk and celebration of Ganesh Puja and other community events, etc. by the residents/inhabitants of the Basanti Colony, Rourkela.

The petitioners along with other residents of Basanti Colony, Rourkela have been residing in the said colony in their respected lease hold plots since more than 30 years and they have been using the vacant part of the Plot No.218(P) as their Yoga, physical Exercise, Badminton court, playground for the children of the members of the colony, open air yoga for the senior citizens and celebration of their religious festivals.

The original status of that land was swamp, cesspool and accordingly, the same was in a pathetic condition, but, the local inhabitants of Basanti Colony, Rourkela, including the petitioners by their joint efforts and contributions made the said land fit and usable by filling earth, gravels and sand on it. For which, the said vacant part of Plot No.218(P) had/have been using as the recreational activities of the local residents of Basanti Colony, Rourkela including the petitioners. When the O.P. No.2 found that, the said land in question has become usable and some part thereof have become greenery, then, the O.P. No.2 floated a notice on dated 09.04.2018 for the sale of that land i.e. part of Plot No.218(P) through an auction sale, to which, the petitioners along with other inhabitants of Basanti Colony protested and intimated their such protest through letter dated 07.05.2018 (Annexure-4) to the Chairman, Rourkela Development Authority and also requested the O.P. No.2 not to take any step for sale of the same defeating the interest of the local inhabitants of Basanti Colony, Rourkela.

When, the O.P.2 remained silent without taking any step for prohibition of alienation of the said land, then, the petitioners along with other inhabitants of Basanti Colony, Rourkela continued their recreational activities on the same as usual, but, suddenly on 10.08.2021, the O.P. No.2 came upon the said land and planted a board claiming title over the same. On verification made by the petitioners along with other local inhabitants of Basanti Colony, Rourkela, they came to know that, the O.P. No.2 is trying to sale out the same. So, the petitioners issued a notice under Section 60 of Orissa Housing Board Act and Section 80 of the CPC, 1908 on dated 17.08.2021 to the O.Ps for taking action as per law against the above illegal activities of the O.P. No.2. After receiving such notice, the O.P. No.2 with its staffs along with man and machinery came over the said land vide Plot No.218(P) of Basanti Colony, Rourkela on 03.09.2021 and forcefully started gathering construction materials on the part of the same, to which, the petitioners along with other local inhabitants protested. Then, the local residents of Basanti Colony, Rourkela approached this Hon'ble Court by filing W.P.(C) No.8180 of 2018 praying for quashing the notice dated 09.04.2018 issued by the O.P. No.2 for auction sale of the said land i.e. Plot No.218(P) of

Basanti Colony, Rourkela.

After hearing, that W.P.(C) No.8180 of 2018 was disposed of by this Court on dated 25.03.2021 with the observations therein that,

“the plot in question is not a part of common utility area, for which, High Court cannot possibly interfere with the decision of the Rourkela Municipal Corporation i.e. offer for sale by way of auction. Because, the said Plot No.218(P) of Basanti Colony, Rourkela has already been transferred to Rourkela Municipal Corporation. So, it is open to the residents of Basanti Colony, Rourkela to approach the Rourkela Municipal Corporation for any other suitable land for the purpose of playground, walks etc.”

Thereafter, on dated 03.09.2021, the O.P. No.2 along with its staffs, man and machinery forcefully gathered construction-materials near the said Plot No.218(P) of Basanti Colony, Rourkela. For which, without getting any way, the petitioners approached this Court by filing W.P.(C) No.27497 of 2021 praying for directing the O.Ps not to change the nature and character of the said properties i.e. Plot No.218(P) of Basanti Colony, Rourkela and not to encumber the same through sale or lease.

After hearing from both the sides, this Court disposed of that W.P.(C) No.27497 of 2021 of the petitioners on dated 08.09.2021 directing O.P. Nos.2 & 4 to attend the request of the petitioners as per Annexure-7 and to take decision as appropriate, if necessary entering into local enquiry involving the parties concerned clarifying that, if no construction is undertaken on the disputed area, commencement of any construction therein shall remain stalled until decision is taken by O.P. No.2.

As per the above Order dated 08.09.2021 passed in W.P.(C) No.27497 of 2021, the petitioners requested O.P. No.2 not to sell the said Plot No.218(P) of Basanti Colony through auction, but without paying any heed to the request of the petitioner, the O.P. No.2 tried to occupy the said land. For which, without getting any way, the petitioners approached this Court by filing this writ petition against the O.Ps praying for a direction to the O.Ps to assign proper reason, why the O.P. No.2 is not following the order dated 08.09.2021 passed by this Court in W.P.(C) No.27497 of 2021 and to settle and keep the said land i.e. Plot No.218(P) under Khata No.2 of Basanti Colony, Rourkela as common land for the residents of Basanti Colony, Rourkela as per the mandate of town planning regulation and not to change the nature and character of the said property and not to encumber the same through sale/lease.

3. One Sanjay Ray was impleaded as O.P. No.6 being an intervener of this writ petition.

4. I have already heard from the learned senior counsel for the petitioners, learned Addl. Standing Counsel for the O.P. No.1, learned senior counsel for the O.P. No.2 and learned counsel for the O.P. No.6.

5. During the course of hearing, the learned counsel for the O.Ps submitted on the basis of their counter affidavits that, in pursuance to the invitation for sale of the land in question i.e. Plot No.218(P) of Basanti Colony, Rourkela through public auction, the O.P. No.6 had participated in that public auction sale in such public auction, he (O.P. No.6) became the highest bidder thereof. For which, as per letter dated 10.11.2021, the O.P. No.2 directed the O.P. No.6 to deposit Rs.65,51,000/- (rupees sixty five lakh fifty one thousand) towards the sold money of the said land in three installments and accordingly, the O.P. No.6 deposited the same. Then, as per letter dated 07.01.2022, the said land i.e. Plot No.218(P) was allotted by the O.P. No.2 in favour of the O.P. No.6 and then on dated 07.09.2022, the O.P. No.2 executed the lease deed for leasing out the said land in favour of the O.P. No.6 and that lease deed was registered on dated 15.11.2022 in favour of the O.P. No.6 vide registered lease deed No.11712202166. For the execution and registration of that lease deed, the O.P. No.6 had paid stamp duties for Rs.3,27,550/-(rupees three lakh twenty seven thousand five hundred fifty) and on dated 14.03.2023, the O.P. No.2 gave delivery of possession of the said lease hold land vide Plot No.218(P) of Basanti Colony, Rourkela and accordingly, the O.P. No.6 took possession of the same. As such, the O.P. No.6 is possessing the land in question. The further submissions of the learned counsels of the O.Ps that, when it was clarified by the Division Bench of this Court as per Order dated 25.03.2021 passed in W.P.(C) No.8081 of 2018 that, the said land in question i.e. Plot No.218(P) of Basanti Colony, Rourkela is not a part of common utility area, for which, this writ petition filed by the petitioners is not maintainable.

6. The aforesaid submissions of the learned counsels of the O.Ps i.e. the selling out of the land in question to the O.P. No.6 through public auction by the O.P. No.2 and deposit of Rs.65,51,000/-(rupees sixty five lakh fifty one thousand) by the O.P. No.6 before the O.P. No.2 towards the cost of the land in question as well as execution and registration of the document No.11712202166 dated 15.11.2022 on payment of stamp duties Rs.3,27,550/-(rupees three lakh twenty seven thousand five hundred fifty) by the O.P. No.6 have not been disputed/denied by the learned counsel for the petitioners.

7. When, the final order dated 25.03.2021 passed by the Division Bench of this Court in W.P.(C) No.8180 of 2018 is going to show that, "the case land i.e. vacant part of plot No.218(P) of Basanti Colony, Rourkela is not a part of common utility area and High Court cannot possibly interfere with the decision of the RMC to offer for sale of the same by way of auction, as the said plot has already been transferred to RMC and it would be open to the residents of Basanti Colony to approach RMC for any other suitable land for the purpose of playground, walks etc." and when the O.P. No.6 has purchased the same through auction sale as per the document i.e. lease deed No.11712202166 dated 15.11.2022 on payment of Rs.65,51,000/-(rupees sixty five lakh fifty one thousand) towards the value of the land in question with payment of Rs.3,27,550/-(rupees three lakh twenty seven thousand five hundred fifty)

towards the stamp duties of the deed and when the said document i.e. document No.11712202166 dated 15.11.2022 in favour of the O.P. No.6 has not been set aside as yet and when, the letters dated 14.03.2023 and 30.03.2023 of the O.P. No.2 are going to show that, the possession of the land in question has already been delivered to the O.P. No.6 on the basis of the document No.11712202166 dated 15.11.2022, then at this juncture, the question of giving any direction to the O.P. No.2 to settle and keep the said land in question i.e. Plot No.218(P) under Khata No.2 of Basanti Colony, Rourkela as common land for the use of the residents of Basanti Colony, Rourkela including the petitioners and not to change the nature and character of the same by the O.Ps including the O.P. No.6 does not arise.

8. Therefore, there is no merit in the writ petition of the petitioners. The same must fail.

9. In result, the writ petition filed by the petitioners is dismissed on contest.

10. As such, the writ petition filed by the petitioners is disposed of finally.

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