

(2021) 09 OHC CK 0027

In the Orissa High Court

Case No : Writ Petition (Civil) No. 23928 Of 2021

Pramod Jena And Others

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 07-09-2021

Acts Referred:

Citation : (2021) 09 OHC CK 0027

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

Bench : Single Bench

Advocate : Rama Chandra Jena, Dhananjaya Mund

Final Decision : Disposed Of

Judgement

K.R.Mohapatra, J

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the parties.
3. The grievance of the Petitioners in this writ petition is with regard to the action of Tahasildar, Bhograi-Opposite Party No.4 in contemplating to evict them forcibly from Plot No.1599 under Khata No. 1131 of mouza Deula under Bhograi Tahasil in the district of Balasore (for short 'the case land').
4. It is submitted by Mr. Jena, learned counsel for the Petitioners that the Petitioners are all tribal landless persons and are residing over the case land by constructing their residential house for last sixty years. Recently, for construction of a Drinking Water Project, the Additional Tahasildar, Bhograi initiated Demarcation Case No. 17 of 2021 for measurement of the case land and requested the public to co-operate with them. Hence, the Petitioners are apprehending their eviction from the case land. It is further submitted that no proceeding whatsoever has yet been initiated for their eviction from the case land. As such, action of the Additional Tahasildar, Bhograi for their eviction in the guise of demarcation of the case land in Demarcation Case No. 17 of 2021 is

illegal and the Additional Tahasildar, Bhograi may be directed to initiate appropriate proceeding, if he proposes to evict the Petitioners from the case land.

5. Mr. Mund, learned Additional Government Advocate for the State, on the other hand, submits that public notice under Annexure-2 for measurement of the case land does not reflect that the Petitioners will be evicted from the case land. Thus, apprehension of the Petitioners is baseless. He, therefore, prays for dismissal of the writ petition.

6. Taking into consideration the rival contentions of the parties and on perusal of the record, it appears that a public notice under Annexure-2 has been issued for demarcation of the case land in Demarcation Case No. 17 of 2021 for construction of Drinking Water Project in the locality and the public at large are requested to co-operate with such demarcation. Law is well settled that an encroacher can only be evicted by following due procedure of law.

7. In that view of the matter, this writ petition is disposed of with an observation that if the Opposite Parties propose to evict the Petitioners from the case land, appropriate proceeding should be initiated for their eviction following due procedure of law, if at all they are in possession over the case land.

Urgent certified copy of this order be granted on proper application.

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