
(2023) 03 OHC CK 0030
In the Orissa High Court
Case No : Writ Petition (C) No. 6570 Of 2023

Santosh Kumar Nath

APPELLANT

Vs

State Of Odisha & Others

RESPONDENT

Date of Decision : 03-03-2023

Acts Referred:

Citation : (2023) 03 OHC CK 0030

Hon'ble Judges : Sashikanta Mishra, J

Bench : Single Bench

Advocate : A.K.Panda, T.Praharaj

Final Decision : Disposed Of

Judgement

Sashikanta Mishra, J

W.P.(C) No.6570/2023 and I.A.No.2894/2023

1. This matter is taken up through hybrid mode.
2. Although the matter is not on the Board of this Bench, on being mentioned, the matter is taken up from the list of Hon'ble Mr. Justice R.K.Pattanaik.
3. The Petitioner is aggrieved by the notice of eviction issued under Annexure-2 whereby he has been asked to vacate the land in question within three days. It is submitted by Mr. A.K.Panda, learned counsel for the Petitioner, that there is no dispute that the land in question belongs to Government and the Petitioner is an encroacher. However, notwithstanding his status as such the concerned authorities have recognized his long possession over the case land and have extended several benefits such as, electricity and water connection and have also issued Ration Card and Aadhaar Card to him showing his place of residence as being over the case land. He further submits that no notice was issued to him prior to issuance of the impugned order, which is contrary to law. Mr.Panda also submits that the Petitioner has been selected for extension of benefits under the Odisha Slum Dwellers Land Right Rules, 2017.

2. Mr. T.Praharaj, learned Standing Counsel, has opposed the contentions as above by submitting that being an encroacher, the Petitioner has no right to be in possession of the land. In any case, his occupation is obstructing the construction of a proposed road over the case land.

3. This Court, however, prima facie finds that neither any notice of eviction was served upon the Petitioner nor any proceeding was initiated prior to issuance of the impugned notice.

4. List this matter before the assigned Bench on 9th March, 2023. Learned Standing Counsel shall obtain necessary instructions and if necessary, file a counter affidavit stating all relevant facts for consideration of this Court.

5. Till such time, the Petitioner shall not be evicted from the case land. Pendency of this Writ Petition shall not be a bar for the authorities to negotiate with the Petitioner to allot an alternative land to him.

6. Urgent certified copy of this order be given on proper application in course of the day..

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