

(2023) 04 OHC CK 0126
In the Orissa High Court
Case No : Writ Petition (C) No.9426 of 2015

Sarat Kumar Singh & Ors

APPELLANT

Vs

Collector, Jagatsinghpur & Ors

RESPONDENT

Date of Decision : 11-04-2023

Acts Referred:

Citation : (2023) 04 OHC CK 0126

Hon'ble Judges : Dr B.R. Sarangi, J; M.S. Raman, J

Bench : Division Bench

Advocate : S.K. Choudhury, P.K. Muduli

Final Decision : Disposed Of

Judgement

1. This matter is taken up through hybrid mode.
2. Heard Mr. S.K. Choudhury, learned counsel appearing for the petitioners; Mr. A.K. Mishra, learned Additional Government Advocate appearing for opposite parties no.1 to 3 and Ms. P. Naidu, learned counsel appearing for opposite party no.5-Commissioner of Endowments, Odisha.
3. The petitioners have filed this writ petition seeking direction to the opposite parties to take immediate steps for their settlement in business, whose business have been affected at the time of removal of "Daru" from the premises of Maa Sarala Temple.
4. Mr. S.K. Choudhury, learned counsel appearing for the petitioners contended that the petitioners, who are the small shopkeepers, were earning their livelihood by running the shop rooms on payment of rent to Maa Sarala Temple Management for temporary acquisition of temple land. It is contended that during the time of "Naba Kalebar", when "Daru" was removed from the campus of Maa Sarala Temple, the petitioners were removed from the Temple land with an assurance that they will be accommodated in the newly constructed shop rooms in future, but till date they have not been accommodated.

5. Mr. A.K. Mishra, learned Additional Government Advocate appearing for opposite parties no.1 to 3 contended that the petitioners have no locus to file this writ petition and, as such, no right has been accrued in favour of the petitioners over the land of Maa Sarala Temple. For the purpose of carrying on business, some lands were provided to the petitioners. If for the purpose of Naba Kalebar of Lord Jagannath, land of Maa Sarala Temple was acquired wherein the petitioners were running their shops, no illegality or irregularity has been committed by the authority. It is further contended that when the petitioners were removed from the temple land, they were given assurance to provide shop rooms in the newly constructed market complex. For that purpose, the Collector, Jagatsinghpur, vide letters dated 14.05.2015 and 19.05.2015, had requested the Chief Administrator, Sri Jagannath Temple, Puri to allocate required funds for reconstruction of demolished structures. Besides, Sri Sri Sarala Endowment Trust in its 49th emergency meeting dated 19.04.2015 under the chairmanship of the Collector, Jagatsinghpur unanimously agreed to construct the market complex to rehabilitate the demolished shops of the petitioners. It is further contended that the total estimate of Rs.2,15,05,000/- has been prepared for construction of market complex. Accordingly, the Commissioner, Endowment, Odisha, Bhubaneswar has been requested vide letter dated 12.06.2015 to approve the plan and estimate of market complex and sanction funds of Rs.1.00 crores out of the available funds of Rs.1.30 crores for construction of market complex and the rest fund of Rs.1,20,60,000/- will be arranged out of the funds of CSR & LAD. It is further contended that Jagannath Temple Administration has given Rs.5,00,000/- for construction of shop rooms to accommodate the petitioners

6. Ms. P. Naidu, learned counsel appearing for opposite party no.5-Commissioner of Endowments, Odisha has seconded the contentions raised by learned counsel for the petitioners and contended that since the land belongs to Maa Sarala Temple, merely because the petitioners were permitted to carry on their business through different shop rooms, that will not create any right in their favour, but they should be properly accommodated. It is contended that a new project is coming up and the petitioners' case may be considered by the authority.

7. Considering the contentions raised by learned counsel for the parties and after going through the records, this Court finds that petitioners have no right to claim that they are entitled to get alternative place. But fact remains, the livelihood of the petitioners is at stake because of their removal from the place. Thereby, the action of the authorities is hit by Article-21 of the Constitution of India. In any case, if a new project comes up, as contended by learned counsel for opposite party no.5, the authority shall do well to consider the case of the petitioners so that they will carry on their business for earning their livelihood. In the meantime, they have been deprived of their livelihood from 2015 to 2023. Needless to say, both the District Administration and Maa Sarala Temple Administration shall look into the welfare of the petitioners because they were carrying on business by paying rent to the Maa Sarala Temple Management. As a consequence thereof, the authorities are directed to take necessary steps to

rehabilitate the petitioners in the new project as expeditiously as possible.

8. With the above observation and direction, the writ petition stands disposed of.

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