

(2022) 08 OHC CK 0235

In the Orissa High Court

Case No : Writ Petition (C) PIL No.6933 of 2016

Satyasish Dash And Others

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 30-08-2022

Acts Referred:

Citation : (2022) 08 OHC CK 0235

Hon'ble Judges : Dr. S. Muralidhar, CJ;Chittaranjan Dash, J

Bench : Division Bench

Advocate : Sanjib Swain, Debakanta Mohanty

Final Decision : Disposed Of

Judgement

1. This is a writ petition filed in the nature of public interest litigation (PIL) praying inter alia to quash the order dated 6th April, 2016 issued by the Housing & Urban Development Department, Government of Odisha rejecting representation of the Petitioners against construction of a fish market by the Nimapara Notified Area Council (NAC) over Government Sabik Plot No.2897 in Mouza-Andhia over an area of Ac.0.55 decimals of kissam 'Jora' land (water channel) pertaining to Sabik Khata No.635.

2. While directing notice to issue in the present petition on 26th April 2016, this Court passed the following interim order on the same date in Misc. Case No.6351 of 2016.

"Notice as above.

The submission of the learned counsel for the petitioners is that the land in question which is entered in the revenue record as Jora land i.e. the land meant for water channel is being used by the opp. parties for construction of a fish market. Earlier, a writ petition was filed by the petitioners, which was disposed of with the direction to the Secretary, Housing & Urban Development Department, Odisha, to consider the representation of the petitioners and pass a reasoned

order. Pursuant thereto, the Commissioner-cum-Secretary to Government in Housing & Urban Development Department, Odisha, passed order dated 06.04.2016, wherein it is not disputed that the land in question was entered in the revenue record as Jora land and it has been stated that due to lapse of time the said entry has lost its characteristic as per the present field condition. Nowhere in the order sheet it has been stated that the nature of the land has been changed in the revenue record. Without there being change in the nature of the land, the usage of the land cannot be changed, which should be done after receiving objections from the concerned parties and public at large.

In view of the aforesaid, we are of the opinion that the petitioners have made out a prima facie case for grant of interim protection and it is accordingly directed that the status quo with regard to usage of the land measuring an area Ac 0.55 decimals in respect of Plot No.2897, Khata No.635, Mouza Andhia, Kissam Jora in the district of Puri shall be maintained and no 3rd party interest shall be created until further order(s) by this Court. It is made clear that in case any allotment has been made in favour of any 3rd party, no possession shall be given and there shall be no change in the nature of the land in question. However, it is clarified that the construction of the drain work, if any has been undertaken by the authorities, may continue.”

3. More than 6 years have elapsed since the passing of the above interim order and yet no reply has been filed by any of the Opposite Parties. In other words, the interim order has continued well over 6 years.

4. In the circumstances, while making the aforesaid interim order absolute, it is directed that if the Opposite Parties in future decide to revive the proposal for constructing any fish market then sufficient public notice should be given regarding such proposal and after hearing the objections to such proposal, they may proceed in accordance with law.

5. The petition is disposed of in the above terms.

.....