

(2023) 10 OHC CK 0121

In the Orissa High Court

Case No : Writ Petition (C) No. 4870 Of 2023

Sudhanshubala Das

APPELLANT

Vs

State Of Odisha And Another

RESPONDENT

Date of Decision : 17-10-2023

Acts Referred:

Citation : (2023) 10 OHC CK 0121

Hon'ble Judges : Dr. B. R. Sarangi, J; Murahari Sri Raman, J

Bench : Division Bench

Advocate : Biswambar Mohanty, S. Nayak

Judgement

1. This matter is taken up by hybrid mode.
2. Heard Mr. Biswambar Mohanty, learned counsel appearing for the petitioner and Mr. S. Nayak, learned Addl. Standing Counsel appearing for the State-Opposite Parties.
3. In compliance of the orders dated 26.06.2023 and 07.07.2023, Mr. Biswambar Mohanty, learned counsel appearing for the petitioner has filed the lease document executed between the petitioner and the State by way of memo, which is taken on record.
4. The petitioner has filed this writ petition challenging the order dated 22.04.2022 passed by the Tahasildar, Khurda in Lease Case No.111 of 2001 and seeks to issue direction to the opposite parties to settle the land in her favour by accepting the rent.
5. Mr. Biswambar Mohanty, learned counsel appearing for the petitioner contended that cancellation of lease has been made on the ground that the leased out land is not being used for the purpose for which it was sanctioned, which is not tenable in the eye of law. To substantiate his contention, he has relied upon the judgment passed by this Court in the case of Vinayaka Missions Lord Jagannath Institute of Dental Science and Research v. State of Orissa, 2012

(2) ILR CUT 777, wherein this Court held that non-user of the demised land cannot be treated to be user for a purpose other than for which the lease was granted and, therefore, Section 3-B cannot be resorted to for cancelling the lease and resuming the land for non-user. It is contended that the case of the petitioner is covered by the observation made by this Court in the aforementioned judgment.

6. Issue notice to the opposite parties.

7. Since Mr. S. Nayak, learned Addl. Standing Counsel appearing for the State- Opposite Parties accepts notice for opposite parties no.1 and 2, no notice need be issued to the said opposite parties. However, two extra copies of the writ petition be served on learned State Counsel appearing for opposite parties no.1 and 2 by tomorrow (18.10.2023) enabling him to obtain instructions or file counter affidavit by the next date.

.....