



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.7430 of 2021

Avissekha Behera

.....

Petitioner

Represented by Adv.-
Mr. G. Mukherji, Sr.Advocate

-versus-

**Odisha State Road Transport
Corporation and others**

.....

Opp.Parties

Represented by Adv.-

Mr. A. Tripathy, Advocate (for O.P.
nos.1 to 3)

Mr. D. Nayak, Advocate (for O.P. no.4)

Mr. D. Mohapatra, Advocate (for O.P.
no.5)

CORAM:

THE HON'BLE MR. JUSTICE ARINDAM SINHA

AND

THE HON'BLE MR. JUSTICE M.S.SAHOO

ORDER

11.11.2024

Order No.

- 14.** **1.** Mr. Mukherji, learned senior advocate appears on behalf of petitioner and submits, his client's stationery vending shop was demolished on 13th February, 2021. His client was operating in the premises of opposite party no.1, under licence. There was no notice



but demolition. On query made he submits, at that point of time the town vending committee had not been constituted. No such committee being an existence, question of his client having had applied for street vending identity card did not and does not arise. He submits, by interim order made and continuing one constructed shop room in the new bus stand is to have been kept reserved for petitioner. He seeks direction upon the concerned authority for the allotment.

2. Mr. Tripathy, learned advocate appears on behalf of opposite party nos.1 to 3. He submits, petitioner had defaulted on licence fees. He clarifies, Cuttack Development Authority (CDA) caused the demolition.

3. Mr. Nayak, learned advocate appears on behalf of Cuttack Municipal Corporation (CMC) and submits, petitioner is not a street vendor. His own case is of licensee under opposite party no.1. As such this Bench does not have assignment.

3. Mr. Mohapatra, learned advocate appears on behalf of CDA and submits, his client did not demolish the old bus stand of opposite party no.1. His client constructed new bus stand at separate site. Allotments in respect of 30 new shop rooms constructed in the



new bus stand were prior to issuance of interim order dated 14th September, 2023. Petitioner can have no cause of action against his client. Mr. Das, learned advocate, Additional Government Advocate appears on behalf of added party, State.

4. Order sheet reveals submissions made earlier on behalf of petitioner that he is a stationery street vendor within meaning given in clause(k) under section 2 in Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. Further submissions has been made that there was no question of petitioner obtaining identification as a street vendor because town vending committee had not been constituted prior to 13th February, 2021, when his stationery street vending shop stood demolished. We are not concerned who caused the demolition. The Supreme Court in **Raptakos, Brett & C. Ltd. v. Ganesh Property** reported in (2017) **10 SCC 643** declared the law that a tenant after expiry of the lease is akin to a trespasser but cannot be evicted without due process of law. A licensee is a person, who enters with permission but on revocation becomes a trespasser or akin to one. Here we have fact of demolition. It implies petitioner was treated as a stationery



vendor, to demolish his shop. In the premises, his claim for allotment is by way of rehabilitation under the Act of 2014.

5. List for hearing and disposal under same heading on 9th December, 2024. Interim order to continue till next date of hearing.

(Arindam Sinha)
Judge

(M.S. Sahoo)
Judge

Gs/Radha