

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No.25103 of 2023

Basant Kumar Nepak

.....

Petitioner

Mr. L.K. Maharana, Advocate

Vs.

State of Odisha & Ors.

.....

Opposite Parties

Addl. Government Advocate

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE MURAHARI SRI RAMAN

ORDER

04.09.2023

W.P.(C) No.25103 of 2023

And

I.A. No.12919 of 2023

Order No.

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This matter is taken up through hybrid mode.

2. Heard Mr. L.K. Maharana, learned counsel appearing for the petitioner.

3. The petitioner has filed this writ petition seeking to quash the order dated 19.01.2023 passed by learned District Judge, Ganjam, Berhampur in S.P.J.C. No.01 of 2020 under Annexure-8 and to declare the acquisition proceeding vide notification dated 05.05.2016 as invalid as lapsed by the operation of statutory provision of law.

4. Mr. L.K. Maharana, learned counsel appearing for the petitioner contended that the petitioner filed Civil Suit No.36 of 2016 against all other co-sharers including the purchaser-

Kautaki Sahu, who is opposite party no.14 challenging the RSD No.4659 dated 12.08.2008 in the court of learned Civil Judge (Junior Division), Berhampur. He also filed another C.S. No.92 of 2008 in respect of the properties including the Plot No.2605/3290. It is admitted that both the suits are pending before the learned Civil Judge (Junior Division), Berhampur. At this point of time, a reference was made under Section 3-H (4) of the National Highways Act, 1956 to the Court of learned District Judge, Ganjam for apportionment of properties. Though objection was raised before the learned District Judge stating, inter alia, that during pendency of the civil suits, the apportionment of properties should not be made till disposal of the said suits. But, learned District Judge, Ganjam passed the judgment on 19.01.2023 apportioning the compensation amount and clarified that opposite party no.14, the stranger is entitled to get 1/10 share of the compensation amount awarded in favour of the parties. Therefore, it is contended that unless the civil suits are decided, such apportionment cannot be sustained in the eye of law.

5. Issue notice to the opposite parties.
6. Let one extra copy of the writ petition be served within three days on learned Additional Government Advocate, as he appears for opposite party no.1 to enable him to obtain instructions or file counter affidavit.
7. Requisites for issuance of notice to opposite parties no.2 to 14 by Registered Post with A.D. shall be filed within three days. Office shall send notice to the said opposite parties fixing a short returnable date.

8. As an interim measure, it is directed that the judgment dated 19.01.2023 passed by the learned District Judge, Ganjam in S.P.J.C. No.01 of 2020 under Annexure-8 shall remain stayed till 26.09.2023.

(DR. B.R. SARANGI)
JUDGE

Alok

(M.S. RAMAN)
JUDGE

