

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.30127 OF 2021

Nilambar Sahoo and others *Petitioners*
Mr. Bibekananda Bhuyan, Advocate
-versus-
State of Odisha and others *Opp. Parties*
Mr. Tapas Kumar Praharaj,
Standing Counsel

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
29.09.2021

Order No.

01. 1. This matter is taken up through hybrid mode.
2. Mr. Bhuyan, learned counsel for the Petitioners submits that there is a Pucca Well over Plot No.982, which is being used by the local people from the time immemorial to meet a need of drinking water. There is also a passage over Plot Nos.960 and 961. All the aforesaid three plots are recorded in the name of G.A. Department, Government of Odisha. Recently, the Odisha Water Supply and Sewerage Board made an attempt to fill the Pucca Well to construct a sewerage line thereon to which the local people along with the Petitioners objected. Since their objection was not paid any heed, they filed W.P.(C) No.9887 of 2021, which was disposed of vide order dated 19th March, 2021 with the following direction:

“This matter is taken up through hybrid arrangement (virtual/physical) mode.

This writ application has been filed by the Petitioners, who happens to be the villagers of Village-Gadakana, with the prayer to direct the Opposite Party No.5 not to fill up the pucca well or taking any sewerage connection through the land as given in the schedule of the writ application.

Upon hearing learned counsel for the Petitioners and the learned Additional Government Advocate and on going

through the averments made in the writ application and the documents annexed thereto; this writ application stands disposed of with the observation that if the representation of the Petitioners said to have been filed sent to Opposite Party No.2 on 27.01.2021 by registered post with A.D. as at Annexure-4 is still pending, the same shall be considered in its proper perspective and disposed of in accordance with law, as expeditiously as possible, preferably within a period of three weeks from the date of production of a certified copy of this order.

Till the representation, as above, is pending, stands disposed of within the time, status quo in respect of the land as described in the representation as at Annexure-4 as its stands today shall be maintained.”

On the basis of the application filed by the Petitioners, High Court Misc. Case No.2 of 2021 was initiated on the file of Collector and District Magistrate, Khurda and he took up the enquiry.

3. It is submitted by Mr. Bhuyan, learned counsel for the Petitioners that although the land belongs to G.A. Department and the area is coming under the jurisdiction of Bhubaneswar Municipal Corporation, none of the aforesaid departments have been consulted while conducting enquiry in High Court Misc. Case No.2 of 2021. The Petitioners were not given any opportunity of hearing. The Collector and District Magistrate, Khurda only taking into consideration the report of the Project Engineer, PMU, OISIP, JICA, OWSSB, Bhubaneswar has passed the impugned order.

4. It is his submission that since the Project Engineer, PMU, OISIP, JICA, OWSSB, Bhubaneswar is undertaking construction of the drainage, the Collector and District Magistrate, Khurda should not have relied upon his report alone. He should have consulted with the G.A. Department as well as Bhubaneswar Municipal Corporation to take a decision in the aforesaid misc.

case. It is further submitted that although the land is recorded as 'Jalasaya-I', but without any de-reservation, construction is being undertaken, which is against law. In that view of the matter, he prays for setting aside the impugned order.

4. Mr. Praharaj, learned Standing Counsel for the State prays for some time to take instruction in the matter and file a detailed counter affidavit. Hence, the matter requires consideration.

5. Issue notice.

6. Since Mr. Praharaj, learned Standing Counsel accepts notice on behalf of Opposite Party Nos.1 and 2, two extra copies of the writ petition shall be served on him by 1st October, 2021.

7. Notice be issued to Opposite Party Nos.3 to 5 by Speed Post with A.D. fixing a short returnable date.

8. Requisites shall be filed by 1st October, 2021.

9. Put up this matter on 30th November, 2021.

(K.R.Mohapatra)

Judge

I.A. No.13831 of 2021

02.

1. Heard.

2. As an interim measure, it is directed that there shall be stay operation of the impugned order dated 17th August, 2021 (Annexure-6) passed by the Collector & District Magistrate, Khurda in High Court Misc. Case No.2 of 2021 till the next date.

Urgent certified copy of this order be granted on proper application.

(K.R.Mohapatra)

Judge

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