

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.32338 OF 2022

Krushna Chandra Jena

....

Petitioner(s)
Mr.N.K.Sahu,Adv.

-versus-

State of Odisha and others

....

Opposite Party(s)
Mr.S.P.Panda,AGA

CORAM:
JUSTICE BISWANATH RATH

ORDER
08.12.2022

Order No.

02.

1. Heard learned counsel for the Parties.
2. The Writ Petition involves a challenge to the asking for payment of concessional fee to the Petitioner involved herein. In an attempt in getting permission for conversion of lease hold Plot No.89/A, Mouza- Lakhmi Sagar-I, on the premises that the Scheme floated for the purpose on 18.07.2008 vide Annexure-8 it is claimed that Scheme does not prescribe any such collection. For the submission of Mr.Sahoo, learned counsel for the Petitioner the only requirement therein is deposit of conversion fee in terms of provision 1 in Annexure-8 herein. Going through the resolution vide Annexure-8, this Court nowhere finds any scope for collection of concessional fee.
3. Mr.Panda, learned State Counsel submits that the demand in Annexure-11 involves pursuant to communication dated 13.01.2015 which reads as follows:-

“Criteria for calculation of the amount of differential premium, in the matter of conversion of lease hold to free hold

status under the Conversion Scheme, 1998 floated by the Government, required to be paid by the lessees, who had availed concession in payment of land premium at the time of sanction of lease and in the event of their death by the substituted lessees and in the event of transfer of the lease plots, by the transferees, had been laid down in this Department Order No.7375 Dated 23.06.2003.

Calculation of amount of differential premium, concerning the lease plots in respect of which concession has been availed by the lessees on the basis of their membership of Co-operative Societies, in the matter of conversion of lease hold to free hold status under the Conversion Scheme floated subsequently in the year 2003, at a uniform rate was under the active consideration of the Government for some time. Now, Government, after careful consideration of the matter, have been pleased to decide that in the matter of conversion of lease hold to free hold status, the lessees including the substituted lessees, in the event of transfer of the lease plots, shall pay the differential premium to be calculated at the rate of premium prevailing on the date of filing application for conversion, irrespective of the death of the original lessee or transfer of the lease plot, etc.

This will come into effect from the date of issue of this order.”

As the cabinet approval is ultimately interfered in the present notification vide Annexure-8, this Court finds a fit case to be examine and thus directs issuing notice to the Opposite Parties on the question of admission.

4. Since all the Opposite Parties will be represented by learned State Counsel, five extra copies of the brief be served on him within three working days.
5. Counter, if any, be filed within four weeks.
6. Put up this matter on 25.01.2023.

(Biswanath Rath)
Judge

I.A. No.16320 of 2022

Order No.

03. 1. Issue notice as above.

2. There shall be no coercive action involving the Petitioner provided that he deposits the conversion fees in seeking conversion in terms of Annexure-8 vis-à-vis Annexure-11 and files an undertaking by way of affidavit in the concerned department indicating his willingness to deposit the concessional fee with appropriate interest, in the event the Petitioner loses in the legal battle and within two weeks of such disposal.

(Biswanath Rath)
Judge

Swarna

