



A.F.R.

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.36526 of 2025

(An application under Article 226 and 227 of the Constitution of India, 1950)

Natabara Swain and another* *Petitioners

-versus-

State of Odisha and Ors.* *Opposite Parties

Appeared in this case by Hybrid Arrangement

(Virtual/Physical Mode):

***For Petitioners* - Mr. K. K. Jena,
Advocate.**

***For Opposite Parties-* Mr. S. K. Jena,
Advocate. (for O.P. No.7)**

**Mr. S. Nayak,
Addl. Standing Counsel**

CORAM:

HON'BLE MR. JUSTICE A.C.BEHERA

Date of Hearing :20.03.2026 :: Date of Judgment :20.03.2026

A.C. Behera, J. This writ petition under Articles 226 and 227 of the Constitution of India, 1950 has been filed by the petitioners praying for allowing the petitioners to complete construction as per the work order issued by the B.D.O., Balikuda (O.P. No.5) in favour of the petitioner No.2 (Mina Swain) under Antyodaya Gruha Yojana.

2. Heard from the learned counsel for the petitioners, learned counsel for O.P. No.7 and learned ASC for the State.

3. The case of the petitioners is that, a work order was issued in favour of the petitioner No.2 under Antyodaya Gruha Yojana for



construction of a house on their Plot No.3709 in Mouza Kalio under Balikuda Block in the district of Jagatsinghpur, but the O.P. No.7 is not allowing them (petitioners) to construct their said house on their Plot No.3709.

4. The learned counsel for the O.P. No.7 contended that, a civil Suit vide T.S. No.403 of 2001 was filed by the O.P. No.7 against the petitioners in this writ petition arraying them as defendants in the Court of learned Civil Judge (Jr. Division), Jagatsinghpur, in which, decree has been passed in favour of the O.P. No.7 and the defendants (petitioners in this writ petition) were injuncted permanently from interfering with the possession of the plaintiff (O.P. No.7) over the suit land and the defendants (petitioners in this writ petition) were directed to remove the construction made by them over the suit land within two months from the date of such decree.

According to him (learned counsel for the O.P. No.7), as, decree has already been passed in favour of the O.P. No.7 in the suit vide T.S. No.403 of 2001 in respect of the suit land, for which, the petitioners in this writ petition (those were the defendants in that suit) are to be restrained from making any construction over any portion of the suit land in the garb of construction of a house under Antyodaya Gruha Yojana. For which, the writ petition filed by the petitioners is liable to be dismissed.



5. According to the submissions of the learned counsels of both the sides, the petitioners in this writ petition are the owners of Plot No.3709. The O.P. No.7 is the owner of the Plot No.3708. In the map, both the plots are distinct and separate.

6. The petitioners are interested to construct their house granted under Antyodaya Gruha Yojana over their Plot No.3709, in which, the O.P. No.7 has no interest or claim.

7. When, undisputedly, the petitioners are the owners of Plot No.3709 and the O.P. No.7 is the owner of Plot No.3708 and when the petitioners are interested to construct a house granted under Antyodaya Gruha Yojana over their Plot No.3709, to which, the O.P. No.7 cannot object, as he (O.P. No.7) has no interest and possession in Plot No.3709. As, the petitioners have no interest and possession over Plot No.3708, for which, the petitioners are not entitled under law to make any construction over any portion of Plot No.3708, because the O.P. No.7 is the exclusive owner and in possession over Plot No.3708.

8. So, taking the aforesaid submissions of the learned counsels of both the sides and the observations made above into account, I find no justification to disallow this writ petition filed by the petitioners.

9. Therefore, the writ petition filed by the petitioners is allowed.

The petitioners are allowed to make construction of their house under Antyodaya Gruha Yojana on Plot No.3709 on the basis of the work



order issued by the B.D.O., Balikuda (O.P. No.5) under Antyodaya Gruha Yojana without making any construction in any portion of Plot No.3708, in which, the O.P. No.7 is the owner.

The Tahasildar, Balikuda (O.P. No.4) as well as the Block Development Officer, Balikuda (O.P. No.5) are jointly and severally directed to see that, the construction of the house under Antyodaya Gruha Yojana by the petitioners shall be made on the basis of the work order only on Plot No.3709 without touching any portion of Plot No.3708 through proper identification or demarcation.

10. Registry is to communicate the copy of this judgment immediately to the Tahasildar, Balikuda (O.P. No.4) and B.D.O., Balikuda (O.P. No.5).

11. As such, this writ petition filed by the petitioners is disposed of finally.

**(A.C. Behera),
Judge**

Orissa High Court, Cuttack
The 20th of March, 2026/
Utkalika Nayak, Jr. Steno

Signature Not
Verified

Digitally Signed
Signed by: UTKALIKA
NAYAK
Reason: Authentication
Location: High Court of
Orissa, Cuttack
Date: 23-Mar-2026
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