



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.2059 of 2025

Puna Ghadei

..... Petitioner

*Mr. Sukanta Kumar Nayak,
Advocate*

-versus-

***State of Odisha and
others***

..... Opp. Parties

*Mr. Aurovinda Mohanty,
Addl. Standing Counsel
for opp. party nos.1 to 4*

CORAM:

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

THE HON'BLE MR. JUSTICE S. S. MISHRA

ORDER

28.01.2025

Order No.

01. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

This writ petition has been filed by the petitioner Puna Ghadei for setting aside the order dated 11.03.2024 passed by the Tahasildar, Khordha holding that the lease application of the petitioner could not be considered and, therefore, the prayer for lease of area Ac.0.100 dec. out of Plot No.2676 is disallowed. While passing such order, it was held that the Tahasildar is not competent to settle the Government land in Urban area as per Rule 11 of the OGLS Rules, 1983.

Learned counsel for the petitioner submitted that



the matter was before this Court in W.P.(C) No.19437 of 2018 wherein the order was passed that the writ petition is not entertainable and accordingly dismissed, however, it was observed that rejection of the writ petition shall not stand on the way of the petitioner in raising the objection involving the grounds raised before the opposite party no.4-Tahasildar, Khordha for consideration of the same by the said opposite party.

Learned counsel for the petitioner submit that the aforesaid order dated 10.01.2019 was challenged by the petitioner in W.A. No.32 of 2019, which was disposed of as per order dated 09.01.2020 and this Court specifically directed the Tahasildar, Khordha (opposite party No.4) to dispose of the application filed by the petitioner for grant of lease in respect of the encroached land as per the provisions of Section 7 (2-a) of the Orissa Prevention of Land Encroachment Act, 1972 within a stipulated time and further held that no coercive action shall be taken against the petitioner.

From the said order dated 09.01.2020, it appears that encroachment cases were initiated against the petitioner under the provisions of OPLE Act, 1972. He referred to Annexure-4, which is the order passed by the Sub-Collector, Khordha in OPLE Appeal No.16 of 2020, wherein the Tahasildar, Khordha was directed to take suitable steps for settlement of the land in favour of the petitioner, as per the provisions of OLPE Act, 1972, if the petitioner is found to be eligible and the land in question



is leasable in nature and also look into the lease case bearing No.702 of 1987.

Learned counsel for the petitioner submits that in spite of the Division Bench order of this Court in the Writ Appeal so also the order passed by the Sub-Collector, Khordha in OPLE Appeal No.16 of 2020, the Tahasildar, Khordha has been pleased to hold that the Tahasildar is not competent to settle the Government land in Urban area as per Rule 11 of OGLS Rules, 1983 and he has not considered whether the petitioner is eligible to get the land under the provisions of OPLE Act, 1972 or not.

Learned counsel for the petitioner has referred to the provision under Rule 11 of OGLS Rules, 1983 which deals with authorities competent to dispose of the settlement and further referred to Schedule-II Sl. No.9, wherein it is mentioned that so far as the homesteadless persons are concerned, the Competent Officer is the Tahasildar subject to confirmation by the Sub-Divisional Officer if the land does not exceed 10 decimals. Learned counsel for the petitioner urged that in view of such clear-cut provision under the OPLE Act, the impugned order passed by the Tahasildar, Khordha is not sustainable in the eye of law.

Issue notice to the opposite parties on the question of admission indicating therein that the matter shall be disposed of at the stage of admission.

Learned counsel for the State accepts notice on behalf of opp. party nos.1 to 4. Let extra copies of the



writ petition be served on the learned counsel for the State within a week.

Requisites for issuance of notice to the opposite party nos.5 to 8 by speed post with proof of delivery shall be filed within a week.

Put up this matter in the week commencing from 28.02.2025.

Counter, if any, to the writ petition be filed in the meantime.

(S.K. Sahoo)
Judge

(S. S. Mishra)
Judge

Swarna/Ashok