

CASE NO.:
Special Leave Petition (civil) 6006 of 2006

PETITIONER:
Saraswati Das & Ors.

RESPONDENT:
State of Orissa & Ors.

DATE OF JUDGMENT: 22/01/2008

BENCH:
TARUN CHATTERJEE & DALVEER BHANDARI

JUDGMENT:
JUDGMENT

ORDER

1. Heard learned counsel for the parties.
2. This Special Leave Petition is directed against the orders dated 20th of January, 2006 and 23rd of March, 2006 passed by the High Court of Orissa in Writ Petition (c) No. 2973 of 2004 and Review Petition No. 19 of 2006 respectively. By the order passed in the Writ application, the Division Bench of the High Court directed the petitioners to vacate the quarters in question by 31st of March, 2006 and as and when the municipality reconstructs houses and/or quarters of the allottees, the allottees shall be considered and given possession of the new houses and/or the quarters in accordance with the resolutions of the municipality. A Review application was filed in respect of the aforesaid order, which was also rejected by the Division Bench of the High Court of Orissa at Cuttack.
3. By an order dated 13th of April, 2006 in the Special Leave Petition, a notice was issued in presence of the learned counsel, who had entered appearance on behalf of Respondent Nos. 4, 5 & 6 and an interim order directing the parties to maintain the status-quo as to possession on that date was also passed. Subsequently on 4th October, 2007, we directed the Executive Engineer, R & B Division, Balasore, Orissa to inspect the quarters in question and report whether the same are in dilapidated condition for which demolition/reconstruction should be made and also to report who are the persons now in possession of the said quarters. In compliance with the order of this Court, a report has now been submitted by the Executive Engineer, R & B Division, Balasore, Orissa. We have carefully examined the report as well as considered the submissions of the learned counsel for the parties before us. Learned counsel for the petitioners, Mr. Mishra has agreed, on instructions from the client, that they are ready to vacate the quarters in occupation, if this Court directs the municipality to reconstruct new building within 1 = years from the date of vacating the respective quarters by the petitioners. Mr. Mishra, Senior counsel for the petitioners, also submitted that his client is ready to vacate the suit quarters in question, if three months\022time is granted to them to vacate the same to which Mr. Das, learned counsel appearing for the municipality, has not raised any objection.
4. Considering the facts and circumstances of the present case and the submissions made on behalf of the

parties, we, therefore, dispose of this Special Leave Petition on the following terms :-

i) The petitioners are directed to vacate the quarters in question in favour of the municipality within three months from this date.

ii) If the petitioners fail to vacate these respective quarters in question, the respondent-municipality shall be at liberty to take possession by the help of the police authorities.

iii) The municipality, after taking possession within the time specified above, shall construct quarters/houses for the allottees within a period of 1 = years from the date of taken possession from the respective allottees/petitioners.

5. We make it clear that it will be open to the petitioners to mention before this Court to _____ in the event, the municipality fails to deliver possession to the respective allottees of the new quarters/houses. Then, it will be open to the municipality to fix reasonable monthly rent of the respective quarters of the allottees.

6. With the above directions, this Special Leave Petition is disposed of. There will be no order as to costs.