



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.28041 of 2026

CNR No.ODHC010652612026

Nisha Nayak

....

Petitioner(s)

Mr. Tapan Kumar Biswal, Adv.

-versus-

State of Odisha & Ors.

....

Opposite Party(s)

Mr. Debasish Nayak, AGA

CORAM:

HON'BLE DR. JUSTICE SANJEEB K PANIGRAHI

ORDER

03.09.2026

Order No.

01.

1. This matter is taken up through hybrid arrangement.
2. Heard Mr. Tapan Kumar Biswal, learned counsel for the Petitioner and Mr. Debasish Nayak, learned Additional Govt. Advocate for the State.
3. It is submitted on behalf of the Petitioner that the Opposite Parties are now proceeding for eviction of the Petitioner by loudspeaker announcement without granting her any opportunity of hearing.
4. It is further submitted that the Petitioner's family has been residing over the case land for several decades and that the dwelling standing thereon is the only residential accommodation available to the family. The Petitioner also relies upon the household enumeration made under the



USHA Survey in connection with the erstwhile Rajiv Awas Yojana and contends that land-right certificates have been issued to certain similarly situated households, while her claims has not yet been considered.

5. It is settled that no person can claim an indefeasible right to encroach upon public, municipal or other land merely on the basis of long possession. Equally, the absence of title does not authorize summary dispossession.

6. In *Olga Tellis v. Bombay Municipal Corporation*¹, the Constitution Bench held that the right to livelihood is an integral facet of Article 21, while clarifying that no right to occupy public land is thereby created. In *Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan*², the Supreme Court observed that where an occupation has subsisted for a considerable period, reasonable notice before removal is necessary. The right to shelter as an element of a life of dignity was also recognised in *Chameli Singh v. State of U.P.*³

7. The claim to title over the land and the claim to fair consideration under a land-right, housing or rehabilitation framework are distinct. A ration card, electricity connection or survey document does not confer title. Likewise, enumeration under the USHA Survey or the Rajiv Awas Yojana is not an allotment or a Bhumi Adhikar Praman Patra. It is, however,

¹ (1985) 3 SCC 545

² (1997) 11 SCC 121

³ (1996) 2 SCC 549



relevant material which the competent authority cannot ignore, particularly where similarly situated surveyed households are stated to have received land rights.

8. Accordingly, the Writ Petition is disposed of at the stage of admission with a direction to the Commissioner, Bhubaneswar Municipal Corporation, Bhubaneswar (O.P. No.3), to grant an effective opportunity of hearing to the Petitioner and verify:

- (i) her status in the USHA Survey and the records connected with the erstwhile Rajiv Awas Yojana or any successor land-right or housing framework;
- (ii) whether she was merely enumerated or included in the final list of eligible beneficiaries;
- (iii) the ownership, classification and legal assignability of the case land; and
- (iv) the basis on which land-right certificates, if any, were issued to persons claimed to be similarly situated.

9. The Opposite Party No.3 shall thereafter pass a reasoned and speaking order, in accordance with law, within a period of six weeks from the date of receipt of a certified copy of this order along with a copy of the Writ Petition. If settlement of the case land is legally impermissible, the authority shall separately consider whether the Petitioner is eligible for alternative



housing, relocation or any other rehabilitation benefit available under law or policy.

10. Till the aforesaid exercise is completed and the reasoned order is communicated to the Petitioner, she shall not be evicted and the residential structure standing over the case land shall not be demolished. In the event of rejection of the claim, no coercive action shall be taken for a further period of fifteen days from the date of communication of the order, enabling the Petitioner to avail the remedy available in law.

11. It is clarified that this Court has not adjudicated the title of the Petitioner over the case land and has not directed its automatic settlement in her favour. The limited protection granted by this order shall not create any equity or proprietary right in favour of the Petitioner.

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

(Dr. Sanjeeb K Panigrahi)
Judge