

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**WP(C) No.8123 of 2023**

**(Through Hybrid mode)**

***Manas Bardhan and others***

**....**

***Petitioners***

Mr.Kshirod Kumar Rout, Advocate

***-Versus-***

***State of Odisha and others***

**....**

***Opposite Parties***

Mr. Gajendra Nath Rout, Addl. Standing Counsel  
(for O.P. nos.1 to 8)

Mr. D. Gochhayat, Central Govt. Counsel  
(for O.P. nos.9 and 10)

**CORAM:**

**JUSTICE ARINDAM SINHA**

**JUSTICE SANJAY KUMAR MISHRA**

**ORDER**

**24.03.2023**

**Order No.**

**01.**

1. Mr. K. K. Rout, learned advocate appears on behalf of petitioners and submits, his clients are traditional forest dwellers in the area, where Government had and is continuing the process to alienate forest land. He submits, the forest land sought to be diverted are subject matter of notices dated 18<sup>th</sup> August, 2021 and memos dated 29<sup>th</sup> October, 2021 issued by Tahsildar, Erasama in lease case nos.01 to 07 of 2021 initiated under Orissa Government Land Settlement Act, 1962. He submits, this procedure must be interfered with. He relies on

sub-section (5) in section 4 of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. The sub-section is reproduced below.

*"(5) Save as otherwise provided, no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete."*

He draws attention to rule-3 in Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007. He submits, no steps have been taken by the administration for recognition of his clients. Sub-rule (1) in rule 3 is reproduced below.

*"3. Gram Sabha.-(1) The Gram Sabhas shall be convened by the Gram Panchayat and in its first meeting it shall elect from amongst its members, a committee of not less than ten but not exceeding fifteen persons as members of the Forest Rights Committee, wherein [at least two-third members shall be the Scheduled Tribes:]*

*Provided that not less than one-third of such members shall be women:*

*Provided further that where there are no Schedule Tribes, at least one-third of such members shall be women."*

He seeks interference and interim protection pending adjudication.





2. Mr. G. N. Rout, learned advocate, Additional Standing Counsel appears on behalf of State and submits, the land had already been allotted to an industrial unit. On the unit having left, there is contemplation of allotment to another industrial unit, namely, Jindal Steel Works Limited, commonly known as JSW Ltd. Mr. D. Gochhayat, learned advocate, Central Government Counsel appears on behalf of Union of India.

3. We made two-fold query to learned advocates appearing for State and Central Government. They were, whether any steps had been taken for recognition of traditional forest dwellers in the area by State, in compliance with requirements in that regard put forth by the Central Government. Second query was, whether instead of waiting for instructions, the writ petition can be disposed of by directing the State and Central Government authorities to act in accordance with provisions in the Act of 2006, for the purpose of alienation under the Act of 1962. Submissions on behalf of petitioners and State are, the writ petition be disposed of.

4. For purpose of alienation of lands being subject matter of said lease case nos.01 to 07 of 2021, pending with office of Tahsildar, Erasama, there must first be compliance with requisites made in circular dated 3<sup>rd</sup> August, 2009 issued by Government of India, Ministry of Environment and Forests, copy of which is at page-105 and any subsequent circular or

requirement thereafter issued. For the purpose State will move the Ministry of Environment and Forest in the Central Government to further their intention of alienation, on compliance with the requirements. Till compliance of the requirements, including recognition of traditional forest dwellers, is complete as filed in the lease cases, they will remain stayed.

5. The writ petition is disposed of.

Sd- A. sinha, J.

Sd - S.K. Mishra, J.

compd by

22/03/22

