

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.13241 of 2022

***Rakesh Suna and others***

...

***Petitioners***

Mr. A. Pradhan, Advocate

-versus-

***State of Odisha and others***

.... ***Opposite Parties***

Mr. Ashok Kumar Parija, Advocate General assisted by  
Mr. Debakanta Mohanty and Mr. Debasis Nayak, Additional  
Government Advocates for the State

**CORAM:**

**THE CHIEF JUSTICE**

**JUSTICE R. K. PATTANAİK**

**ORDER**

**12.07.2022**

**Order No.**

**I.A. No.8432 of 2022**

03. 1. The writ petition prays for quashing of the “Rehabilitation and Resettlement Scheme for SAMLEI Plan” and for a direction to the Opposite Parties “to formulate a new Scheme for the Rehabilitation and Resettlement of the Petitioners in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013” (hereafter the ‘2013 Act’).
2. When this petition was heard on 27<sup>th</sup> June 2022, notice was issued and an interim order was passed by this Court directing that “no coercive action shall be taken against the Petitioners till the next date.”
3. The Petitioners on their own showing are stated to be residing on land which forms part of the Samaleswari Temple Area

Management and Local Economic Initiative (SAMALEI) Plan. The Petitioners has stated to be residing on the land since long. Initially they filed a representation on 3<sup>rd</sup> January, 2022 facing the prospect of their having to be rehabilitated under the SAMALEI Plan. They filed W.P.(C) No.6710 of 2022 in this Court, which came to be disposed of on 12<sup>th</sup> April, 2022 requiring the Collector, Sambalpur to take a decision on their representation. It appears that a hearing took place on 7<sup>th</sup> May, 2022 and a copy of the proceedings drawn up pursuant thereto has been annexed as Annexure-B to the counter affidavit filed in the said writ petition. It is *inter alia* mentioned that “there is no instance of use of any force of coercive measure by any officials connected with the scheme. Hence, the Petitioners are requested to co-operate with the District Administration for smooth implementation of the project.”

4. What is not in dispute as far as the present petition is concerned is that the land which the Petitioners are presently occupying is Government land. What is also not in dispute is that there is no notification for acquisition issued by the Government under the 2013 Act for any part of such land. And that is not surprising because there is no question of Government acquiring its own land under the 2013 Act. Unless there is an acquisition of land in terms of Section 2 of the 2013 Act, the question of the Petitioners seeking any relief of rehabilitation and resettlement in terms of 2013 Act does not arise.

5. Learned counsel for the Petitioners sought to refer to Section 3 of the 2013 Act and the definition of ‘affected family’ and ‘land owner’ therein. The said definitions under Section 3 and other

provisions concerning rehabilitation and resettlement under the 2013 Act would be attracted only if there is an acquisition of land in terms of the 2013 Act. In the considered view of the Court, since there is no such acquisition proceedings, the 2013 Act does not come into play at all as far as the present case is concerned.

6. As far as the scheme for rehabilitation is concerned, it applies precisely to persons like the Petitioners, who are in occupation of the Government land, and seeks to rehabilitate them without subjecting them to coercive measures of forcible eviction. Accordingly, the Court there is no reason for the Petitioners to resist such scheme for rehabilitation.

7. The very basis of the present petition that the 2013 Act applies is misconceived. The petition proceeds on an erroneous premise that there is an acquisition of land in terms of 2013 Act when in fact there can be no such acquisition since the land in question is Government land.

8. For the aforementioned reasons, the Court finds that the interim order passed by this Court on 27<sup>th</sup> June, 2022 cannot continue any longer. The said interim order is hereby vacated. I.A. No.8432 of 2022 is dismissed.

**W.P.(C) No.13241 of 2022**

9. The next date of 14<sup>th</sup> July, 2022 is cancelled.

10. Learned counsel for the Petitioners seeks and is permitted to file a rejoinder before the next date.

11. List on 19<sup>th</sup> September, 2022 along with W.P.(C) No.16945 of 2022.

***(Dr. S. Muralidhar)***  
***Chief Justice***

***(R. K. Pattanaik)***  
***Judge***

M. Panda

