



**AFR**

**ORISSA HIGH COURT : CUTTACK**

**W.P.(C) No.23848 of 2022**

**CNR NO.ODHC010613912022**

In the matter of an Application under Articles 226 & 227  
of the Constitution of India, 1950.

\* \* \*

Fakira Nag @ Luha  
Aged about 43 years  
Son of Late Ram Kumar Nag  
At: Khagasabahal  
P.O.: Barapurugia  
P.S.: Balangir Sadar  
District: Balangir.

...

Petitioner

*-VERSUS-*

- 1.** State of Odisha  
Represented through  
The Secretary  
Water Resources Department  
Government of Odisha  
Secretariat Building, Bhubaneswar  
District: Khordha.
- 2.** Director, Resettlement & Rehabilitation  
Government of Odisha  
Bhubaneswar  
District: Khordha
- 3.** Collector, Balangir  
At/P.O./P.S.: Balangir  
District: Balangir.



4. Special Land Acquisition and Rehabilitation  
and Resettlement Officer  
Lower Suktel Irrigation Project  
Balangir.
  5. Project Director  
LSIP, Balangir  
At/P.O./P.S.: Balangir  
District Balangir.
  6. The Executive Engineer  
Lower Suktel RRC & B Division  
At/P.O./P.S.: Balangir  
District: Balangir.
  7. The Superintending Engineer  
Lower Suktel RRC & B Division  
At/P.O./P.S.: Balangir  
District: Balangir.
- ... Opposite Parties.

***Advocates appeared in this case:***

For the Petitioner : Mr. Lalit Sahu,  
Advocate

For the Opposite Parties : Mr. Satyabrata Mohanty,  
Additional Government Advocate

***P R E S E N T:***

**HONOURABLE JUSTICE  
MR. MANASH RANJAN PATHAK**

**AND**

**HONOURABLE JUSTICE  
MR. MURAHARI SRI RAMAN**

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**Date of Hearing : 22.07.2026 :: Date of Judgment : 10.08.2026**

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## **JUDGMENT**

**MURAHARI SRI RAMAN, J.—**

The petitioner, a displaced person in acquisition proceeding in Village: Khagasabahal in the district of Balangir, beseeching to challenge the Order No.1856, dated 06.08.2022 passed by the Superintending Engineer, Lower Suktel RRC & B Division, Balangir (Annexure-7)— holding him not eligible for allotment of homestead land and thereby rejecting his claim— craves for exercise of power conferred on this Court under the provisions of Articles 226 and 227 of the Constitution of India for grant of following relief(s):

*“It is, therefore, prayed that the Hon’ble Court may graciously be pleased to admit the writ application, issue notice rule nisi in the nature of writ of mandamus or any other writ/writs as deemed fit and proper, calling upon the opposite parties to quash the order / Memo No.1856, dated 06.08.2022 vide Annexure-7 and to direct the opposite party No.6 to provide the homestead land to the petitioner in Block-C Larkipali and Sadeipali Rehabilitation Colony;*

*And for which act of kindness, the petitioner shall, as in duty bound, ever pray.”*

### **Facts:**

- 2.** The petitioner was in possession of ancestral homestead lands bearing Plot No.423, 424 and 425 (*kisam: Ghara*)



in Khata No.9; and Plot No.477/687 (*kisam: Bahalapani dui*) and Plot No.476/688 (*kisam: Ata Mamuli*) in Khata No.84/12, which were acquired in connection with the Lower Suktel Irrigation Project by the Government of Odisha in Water Resources Department.

2.1. In terms of the Odisha Resettlement and Rehabilitation Policy, 2006<sup>1</sup> (for short, “ORRP”) a possession notice was issued to the petitioner. The petitioner claiming to be displaced person was selected and found eligible to be allotted with Ac.0.10dec of homestead land *vide* Memo No.1331, dated 23.09.2017 (Serial No.15) and accordingly vacated the homestead land and agricultural land, which were submerged on account of Lower Suktel Irrigation Project.

2.2. The petitioner, being not extended the benefits, as due and entitled, made representations before the authority concerned, which turned out to be fruitless. This gave rise to filing of writ petition being W.P.(C) No.15542 of 2022, which came to be disposed of *vide* Order dated 04.07.2022 with an observation that the Executive Engineer, Lower Suktel RRC&B Division, Balangir would take a decision on the representation. Accordingly, the Superintending Engineer, Lower Suktel RRC&B Division,

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<sup>1</sup> *Vide* Government of Odisha in Revenue Department Resolution No.18040—R&REH-1/06/R., 14.05.2006, published in Odisha Gazette, Extraordinary No.651, dated 15.05.2006.



Balangir considered the representation and passed the following order:

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*Whereas a report on the justification regarding allotment of Homestead land to the petitioner was called for from the Project Director (R&R), LSIP, Balangir and clarification was received from the Project Director (R&R), LSIP, Balangir vide his Letter No.1078, dated 30.07.2022 which speaks that the petitioner Sri Fakir Nag @ Luha has not preferred for the Homestead land during household survey. **The Project Director (R&R), LSIP, Balangir has also submitted a copy of the form in which the Displaced Family has to exercise option for Homestead land during household survey, this evident that the petitioner appears to be ineligible for homestead land.***

*In such circumstance and basing on the report of the Project Director (R&R), LSIP, Balangir, the petitioner's claim for Homestead land at this stage is not at all justified.”*

2.3. The rejection of entitlement to the homestead land as claimed to be eligible by the petitioner gave rise to filing of this writ petition.

**Counter affidavit of the opposite parties:**

**3.** A counter affidavit dated 15.11.2022, sworn to by the Superintending Engineer, Lower Suktel Rehabilitation, Resettlement, Camps and Building Division, Balangir, has come to be filed on 18.11.2022.



- 3.1. It is asserted by the opposite parties that Letter No.1331 dated 23.09.2017 of the Executive Engineer, Lower Suktel Rehabilitation, Resettlement, Camps and Building Division, Balangir as communicated to the Special Land Acquisition Officer, Lower Suktel Project, Balangir along with the forms maintained during the household survey, called the Household Interview Schedule, with respect to nineteen displaced families including the petitioner reveals that they exercised their option as required under the Household Interview Schedule (Annexure-B/7 enclosed with counter affidavit) relating to benefits in connection with Resettlement and Rehabilitation. It is stated that, the homestead lands *qua* the Displaced Families are allotted through Plot Allotment Committee Chaired by the Additional District Magistrate, Balangir and therefore, the Executive Engineer, Lower Suktel Rehabilitation, Resettlement, Camp and Building Division, Balangir was not the competent authority to allot the plots to the Displaced Families.
- 3.2. This apart, it is asserted that the petitioner exercised his option and marked as “NO” as against relevant column meant for disclosure under the heading “Homestead within the Rehabilitation Colony” in the Household Interview Schedule.



3.3. In terms of Clause III: Type C: Water Resources/ National Parks and Sanctuary Rehabilitation Package for Displaced Family (DF) of Paragraph 9 (Rehabilitation Assistance) of the ORRP, 2006 the Displaced Families of hilly submerged villages who have opted for homestead by indicating “YES”, would be given 0.10 Acre homestead land within rehabilitation habitat or Rs.50,000/- to each displaced family opting for self-relocation elsewhere or at the rate decided by the Government from time to time. However, in terms of III(c) of said Type C of Paragraph 9, each Displaced Family belonging to Scheduled Tribe category would be provided two-and-a-half acres of irrigated agricultural land, or five acres of non-irrigated agricultural land; nevertheless, each Displaced Family belonging to all other categories would be provided two acres of irrigated agricultural land or four acres of non-irrigated agricultural land. However, it is provided that in case of non-availability of land, cash equivalent would be provided at the rate of Rs.1,00,000/- per acre of irrigated land and Rs.50,000/- per acre of non-irrigated land, including the cost of reclamation or at the rate decided by the Government from time to time.

3.4. Opposing strongly it is stated that as the petitioner did not opt for homestead land in the Rehabilitation and Resettlement Colony, allotment of land to him for



homestead purpose does not arise. The determination has been made on the basis of cash in lieu of homestead (Annexure-4 to the writ petition).

***Hearing:***

**4.** The pleadings being completed, this matter along with other four cases was listed for analogous hearing and counsel for both the sides advanced arguments.

4.1. Patiently heard Sri Lalit Sahu, learned Advocate for the petitioner and Sri Satyabrata Mohanty, learned Additional Government Advocate for the opposite parties.

4.2. Upon hearing, the matter stood reserved for preparation and delivery of Judgment/order.

***Arguments advanced by the counsel representing respective parties:***

**5.** Sri Lalit Sahu, learned Advocate submitted that by manipulating the Household Interview Schedule, the opposite parties have changed the option exercised by the petitioner from “Yes” to “No”. Ground of *mala fide* against the authorities-opposite parties is sought to be emphasised upon by the learned counsel.

5.1. Stemming on the amended ORRP, 2006 in the year 2017, the counsel for the petitioner has submitted that



the opposite parties having not followed the mandate in Paragraph 8 dealing with “Resettlement and Rehabilitation Plan” thereof, the entire Household Interview Schedule is vitiated and cannot be the basis for rejection of the claim of the petitioner.

5.2. It is submitted that the cases tagged to the instant writ petition are similar in nature and arise out of the present context, *i.e.*, land acquisition for Lower Suktel Irrigation Project and relate to the Village: Khagasabahal. It is conceded that the decision rendered in the present matter would govern the rest of the cases tagged<sup>2</sup> for analogous hearing.

6. Refuting the contention of Sri Lalit Sahu, learned Advocate for the petitioner, Sri Satyabrata Mohanty, learned Advocate for the opposite parties would submit that there is no specific allegation against any particular authority or person to demonstrate that there was “manipulation” in the Household Interview Schedule. Scurrilous attack on the authority concerned on specious plea of *mala fide* without bringing on record substance thereof cannot be enquired into. Having exercised his option as “No” as against column meant for filling up “Homestead within the Rehabilitation Colony”, the petitioner at this distance of time cannot turn round

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<sup>2</sup> Cases listed for analogous hearing are:  
W.P.(C) No.27585 of 2022; W.P.(C) No.27586 of 2022; W.P.(C) No.27588 of 2022;  
and W.P.(C) No.27589 of 2022.



to take a stance contrary to what was enumerated in the said Schedule.

6.1. Sri Satyabrata Mohanty, learned Additional Government Advocate emphatically urged that in the Rehabilitation and Periphery Development Advisory Committee (RPDAC) Meeting held on 19.05.2018<sup>3</sup>, the fact whether homestead land can be provided to the petitioner and other similarly situated displaced families having exercised option to receive cash in lieu of homestead was discussed *vide* Proposal No.6. By way of resolution a decision was taken in said RPDAC Meeting that some of displaced families of the submerged villages of Lower Suktel Irrigation Project, Balangir, who had exercised option for cash in lieu of homestead land years back have now applied for allotment of homestead land, nonetheless, as the Displaced Families of six villages have already received the cash in lieu of the homestead land, it was not possible now to provide homestead land. As the compensation amount has been determined and sanctioned in favour of the petitioner and other similar circumstanced families, at this belated stage the petitioner, individually, cannot be provided with homestead. It is, therefore, submitted that the representation would not save the period of delay.

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<sup>3</sup> See Order dated 20.06.2024 passed in *Debananda Dharua Vrs. State of Odisha and Others*, W.P.(C) No.27588 of 2022, which is tagged to this case for analogous hearing.



Prolonged lapse of time legally bars that family from coming forward to object, reverse their choice, and set up demand for allotment of homestead land.

6.2. It is further discernible from the affidavit filed by the petitioner in other cases tagged to this matter for analogous hearing, *e.g., W.P.(C) No.27589 of 2022: Hemanta Dharua Vrs. State of Odisha*, that he has not received Displaced Family Compensation. However, such affidavit has not clarified that he being family member of Narendra Dharua, such amount in lieu of homestead in view of exercise of option has been received by his father/predecessor-in-interest or any other family member. To permit displaced families, more particularly children of the predecessor-in-interest of land subjected to acquisition to reopen settled determination of compensation amount in lieu of homestead years later would severely destabilize public administration and obstruct development projects. Long delays preclude belated challenges to executed land acquisition sanctions.

6.3. However, the amount so sanctioned is reflected in the document placed at Annexure-4 of the writ petition. Therefore, the petitioner in the present writ petition and other writ petitioners in the cases tagged to this case are not entitled to homestead land, more so when benefit has been extended to all other Displaced Families/



Project Affected Persons who have exercised option for homestead in Household Interview Schedule.

6.4. He fervently requested to dismiss the writ application.

***Analysis:***

7. The arguments advanced by the counsel for the respective parties proceeded on the basis that whether the petitioner is entitled for allotment of homestead despite exercise of option “No” against the column: “Homestead within the Rehabilitation Colony”.

7.1. Bare reading of the impugned Order dated 06.08.2022 (Annexure-7) would reveal that the rejection of claim of the petitioner has been made on the sole ground that the petitioner “has not preferred for homestead land during household survey”.

7.2. On perusal of record it is discernible that though at paragraph 3 of the writ petition the petitioner has mentioned about Plot No.423, 424 and 425 in Khata No.9 and Plot No.477/687 and Plot No.476/688 in Khata No.84/12, the notice dated 19.05.2012 relating to land acquisition (Annexure-2) confined to Plot Nos.423, 424 and 425 in Khata No.9 and the kisam was described as “homestead” (*gharabari*), but not “*ghara*” as stated at paragraph 3 of the writ petition.



- 7.3. Minute scrutiny of the documents enclosed with the writ petition would indicate that the Executive Engineer, Lower Suktel RRC&B Division, Balangir issued Letter dated 23.09.2017 specifying entitlement of nineteen Displaced Families for allotment of homestead plots, but in Section 14 of the Household Interview Schedule enclosed with the counter affidavit depicts that the petitioner has exercised option as “No” against the column “Homestead within the Rehabilitation Colony”.
- 7.4. The counsel for the petitioner advanced arguments arduously by contending that the petitioner was not aware of the implication of Household Interview Schedule and such option has been obtained without proper consent inasmuch as there was “manipulation” with *mala fide* intent.
- 7.5. In this regard it may be noteworthy here to quote from the rejoinder affidavit filed by the petitioner:

*“That, the petitioner submits here that, at Para-6 & 11 of the counter mention that, the petitioner selection letter No.1331 dt.23.09.2017 of the Executive Engineer, Lower Suktel Rehabilitation Resettlement Camp and Building Division, Balangir (O.P. No.6). The Opposite Party take place household interview schedule no date and time has been mention in option form. **The petitioner opted for land “yes” but the Opposite Parties manipulating the documents and change the same.** The Opposite Parties not conducted the house hold interview as per the*



*Section 7 (sic., Paragraph 8) of Policy, 2006. The principle of natural justice has been violated by the opposite party No.7, on the ground that, the Opposite Parties misutilized principle decided in the rules and regulation frame by the Water Resources Department Government of Odisha the same has been rejected the claim of the petitioner and the Opposite Party No.7 take averment regarding not the competent authority for allot the Plot/land to the displaced families. Therefore, the said Letter No.1331, dt.23.09.2017 cannot be considered as an allotment order for homestead land. The Opposite Party No.6 several homestead land allotted to the displace family vide Allotment Order, 1008 dt.27.08.2019 Memo No.678(2) Dt.22.05.2017 and Memo No.1343 dated 15.09.2015 and one Susanta Barik all the person are allotted by the Opposite Party No.6 in Block-B, C, D at Larkipali and Sadeipali Rehabilitation Colony Mouza- Larkipali and Sadeipali Dist: Balangir without household survey conducted by the Opposite Parties homestead land already been allotted in the village of Pardhiapali.”*

- 7.6. Though it is easy to allege manipulation, it is difficult to prove. Such allegation involves factual adjudication and cannot be examined or enquired into by way of a petition under the provisions of Article 226 of the Constitution of India. It, thus, is transparent from the averments of the writ petition that the petitioner attacked the conduct of the enumerator(s)/surveyors in making entry in the Homestead Interview Schedule without bringing on record any specific instance. There is no iota of evidence to demonstrate that the petitioner raised such issue before the authority concerned. The petitioner while



making scurrilous attack on the authorities/officials appears to have deliberately ignored to array them as party in person.<sup>4</sup>

7.7. A Division Bench of this Court in *Jagdamba Polymers Pvt. Ltd. Vrs. State of Odisha*, W.P.(C) No.10555 of 2008, *vide Judgment dated 17.09.2008* held,

“11. *There has to be very strong and convincing evidence to establish the allegations of mala fides specifically alleged in the petition as the same cannot merely be presumed. **The presumption is in favour of the bona fides of the order unless contradicted by acceptable material.*** (Vide *State of U.P. Vrs. Dr. V.N. Prasad*, 1995 Suppl (2) SCC 151; *Arvind Dattatraya Dhande Vrs. State of Maharashtra*, (1997) 6 SCC 169; *Utkal University Vrs. Dr. Nrusingha Charan Sarangi*, (1999) 2 SCC 193; *Kiran Gupta Vrs. State of U.P.*, (2000) 7 SCC 719; and *Netai Bag Vrs. State of W.B.*, (2000) 8 SCC 262).

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13. *In First Land Acquisition Collector Vrs. Nirodhi Prakash Gangoli*, (2002) 4 SCC 160; and *Jasvinder Singh Vrs. State of J&K*, (2003) 2 SCC 132, the Apex Court held that burden of proving mala fides is very heavy on the person who alleges it. Mere allegation is not enough. Party making such allegations is under the legal obligation to place specific materials before the Court to substantiate the said allegations.

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<sup>4</sup> *Madhuchhanda Sahoo and Others Vrs. Odisha State Health & Family Welfare Society, Government of Odisha & Others*, 2024 ILR-CUT ONLINE 218.



14. *More so, it is settled legal proposition that in case allegations of mala fide are made against any person he is to be impleaded by name, otherwise the allegations cannot be considered. (Vide State of Bihar Vrs. P.P. Sharma, I.A.S. Of Delhi, AIR 1996 SC 326; All India State Bank Officers' Federation Vrs. Union of India, (1997) 9 SCC 151; and I.K. Mishra Vrs. Union of India, (1997) 6 SCC 228.)*

15. *In Federation of Rly. Officers' Association Vrs. Union of India, AIR 2003 SC 1344, the Apex Court has held that the allegation of mala fide has to be specifically made and the person against whom such allegations are made has to be impleaded and his absence such allegations cannot be taken into consideration."*

7.8. A fact is said to be proved when the Court is satisfied as to its truth, and the evidence by which that result is produced is called the proof. The general rule is that the burden of proof (*onus probandi*) lies on the party who asserts the affirmative of the issue or question in dispute. When that party adduces evidence sufficient to raise a presumption that what he asserts is true, he is said to shift the burden of proof; that is, his allegation is taken to be true, unless his opponent adduces evidence to rebut the presumption.<sup>5</sup> Strong suspicion, strange coincidence and grave doubts cannot take place of legal proof.

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<sup>5</sup> See, Concise Law Dictionary, by P.G. Osborn, published by Sweet and Maxwell, 1927.



7.9. A fact is said to be proved when after considering the matters before it, the Court either believes it to exist or considers its existence so probable that a prudent man ought under the circumstances of the particular case to act upon the supposition that it exists. What is required is production of such materials on which the Court can reasonably act to reach the supposition that a fact exists. Proof of the fact depends upon the degree of probability of its having existed. The standard required for reaching the supposition is that of a prudent man acting in any important matter concerning him. Proof does not mean proof to rigid mathematical demonstration because that is impossible; it must mean such evidence as would induce a reasonable man to come to a particular conclusion.<sup>6</sup>

7.10. Save and except denial of having put “No” in the Household Interview Schedule, the petitioner has not brought on record any material which would demonstrate that the exercise of option was manipulated or the same was done with *mala fides*.

7.11. Section 14 of the Household Interview Schedule it is clearly stated as “No” against “Homestead within the Rehabilitation Colony”. On the query, Sri Lalit Sahu, learned Advocate did not dispute the signature being put

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<sup>6</sup> *M. Narasinga Rao Vrs. State of Andhra Pradesh*, AIR 2001 SC 318; *T. Shankar Prasad Vrs. State of Andhra Pradesh*, (2004) 3 SCC 753.



by the petitioner in his own handwriting at the foot of the “declaration for option relating to resettlement and rehabilitation benefits” *vide* Section 14 of the Household Interview Schedule. It is observed that such signature is put in presence of a witness and other family member. Such information contained therein was also certified by the surveyor/investigator. The relevant columns of said Schedule were filled up by own handwriting. On comparing the signatures of the petitioner on the Schedule and the *Vakalatnama* this Court finds there is similarity.

7.12. Another significant aspect which deserves to be taken note of is that when the petitioner has alleged “manipulation” by the investigator/surveyor who maintained the Household Interview Schedule in course of household survey, in absence of making him party to this proceeding, this Court would not conduct fishing and roving enquiry. Mere allegation, in absence of substantial material being adduced by the petitioner, would not lead to believe that there was manipulation and paucity of material particulars would not suffice for this Court to enquire into the matter in exercise of power under Article 226 of the Constitution of India.

7.13. A clear stance has been taken by the opposite parties by way of Affidavit dated 31.07.2023 that the case of the petitioner is considered under the ORRP, 2006 but not



the Policy of 2013. It has been adumbrated by the opposite party No.7-Superintending Engineer that none of the Displaced Families of Village Khagsabahal including the petitioner have opted for Homestead land in the relevant column of the Individual Household Interview Schedule during the Socio-Economic Survey held during 2009 to 2011. The Village level meeting to commence the Socio-Economic Survey was held on 10.09.2009 and final Survey report was submitted in March, 2011. It is further submitted that after collection of data from the project affected families in the Individual Survey Schedule, data has been compiled and final volume of Survey has been prepared by the Survey Agency. At Page No.50 of the final Survey report of Khagsabahal Village it is clearly mentioned that, "All the 241 Displaced Families have suggested to resettle on their own of which 34 have suggested the name of the place where they want to resettle. Rest Displaced Families will also resettle on their own but during the period of survey they have not finalized the place where they want to go". As against this statement of the opposite parties, a reply affidavit dated 17.08.2023 has been filed by the petitioner by affirming the fact that the entry in the Record-of-Right depicting him as "Christian" is error; rather he belongs to "*Ganda*" community which ought to be treated as "Scheduled Caste". It is also stated in the said affidavit that the petitioner has not



been extended the compensation although the same is sanctioned as per the ORRP, 2006. Due to soaring prices the petitioner is unable to purchase land inasmuch as the opposite parties have not released the cash equivalent @Rs.50,000/- to each displaced family opting for self-relocation elsewhere in terms of Paragraph 9(III): Type C of the ORRP, 2006. As against such contention, the affidavit dated 31.07.2023 sworn to by the Superintending Engineer, LSRRC&B Division made the following clarification at paragraph 4 thereat,

*“That, in reply to the averments made in Paragraph-8 of the rejoinder affidavit it is humbly submitted that R&R Policy, 2006 is applicable for the village Khagsabahal under Lower Suktel Irrigation Project as Land of Khagsabahal village has been acquired under the provisions of Land Acquisition Act, 1894. Notification under Section 4(1) of Land Acquisition Act, 1894 was issued for the said village vide Notification No. 42098/R&DM, dated 03.09.2001 of Government in Revenue & DM Department, Odisha. **The Land Acquisition compensation has already been paid to the beneficiary.**”*

7.14. It is thus manifestly clear from the contents of the rejoinder affidavit dated 16.01.2023 that after the inhabitants who opted for Homestead land at the stage of survey on account of Household Interview Schedule got the allotment orders, the petitioner sought to prevaricate his option offered earlier. For this purpose,



during the course of hearing Sri Lalit Sahu, learned Advocate sought to stem on amended provision contained in Paragraph 8 of the ORRP, 2006, which came to be published in the Odisha Gazette, Extraordinary No.2168, dated 16.12.2017. On perusal of Letter dated 23.09.2017 of the Executive Engineer, Lower Suktel RRC&B Division, Balangir *vide* Annexure-3 enclosed with the writ petition addressed to the Special Land Acquisition Officer and Copies of Household Interview Schedule *vide* Annexure-B/7 enclosed with the counter affidavit would demonstrate that the option for Homestead within the Rehabilitation Colony has been exercised prior to 23.09.2017. Therefore, the submission of the learned counsel that the manner provided under Paragraph 8 as amended with effect from 16.12.2017 would attract in the present case is fallacious.

7.15. For better comprehension of the contention set out by learned counsel for the petitioner, relevant portion of Paragraph 8 of the ORRP, 2006 (pre and post amendment) is given hereunder:

| Paragraph 8<br>before amendment                                            | Paragraph 8<br>after amendment                                                                |
|----------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| 7. Resettlement and Rehabilitation Plan.—<br>Based on the list approved by | 7. Resettlement and Rehabilitation Plan.—<br>Based on the list approved by Government and 1st |



|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Government and option of displaced families, Resettlement and Rehabilitation Plan shall be prepared by the Collector for resettlement and rehabilitation after due consultation with displaced communities in the manner determined by the Government. Such plan should address the specific needs of the women, vulnerable groups and indigenous communities. The same will be placed before the RPDAC for approval. While preparing the plan, the following aspects should be taken into consideration: ***</p> | <p>option of displaced families, the Resettlement and Rehabilitation Plan shall be prepared by the Collector for resettlement and rehabilitation after due consultation with displaced communities in the manner determined by the Government. <b>The change of option shall be allowed only once within a period of six months from the date of exercising the first option.</b> Such plan should address the specific needs of the women, vulnerable groups and indigenous communities. The same will be placed before the RPDAC for approval. While preparing the plan, the following aspects should be taken into consideration: ***</p> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

7.16. Based on the amended provision the counsel for the petitioner canvassed before this Court that the scope for change of option was not granted to the petitioner in



terms of Paragraph 8, as it stands after amendment. As is apparent, the amendment to ORRP, 2006 being published in the Odisha Gazette, Extraordinary No.2168, dated 16.12.2017, the enumeration in Household Interview Schedule being made prior to 23.09.2017 (manifest from Annexures-A/7 and B/7 enclosed with counter affidavit) the amended provision would not be applicable. Such observation is fortified by having glance at Annexure-L/7 enclosed with Affidavit dated 31.07.2023 which is a document prepared in the month of March, 2011 showing “Socio-Economic Survey and Socio-Cultural Resource Mapping and Infrastructural Survey and R&R Action Plan” with respect to Village: Khagasabahal, Lower Suktel Irrigation Project, Balangir. In the said document having exercised choices the names of Displaced Families selected for their resettlement have been placed at Table 4.5. Reading the document at Annexure-K/7 would leave no ambiguity in mind that a Resolution has been passed on 10.09.2009 in the General Body Meeting of said village to the effect that cooperation would be extended for survey regarding Displaced Families in terms of ORRP, 2006.

7.17. Therefore, for the reasons so ascribed this Court comes to the irresistible conclusion that no error is perceived in the impugned Order dated 06.08.2022 passed by the



Superintending Engineer, Lower Suktel Resettlement, Rehabilitation C&B Division, Balangir (Annexure-7) in compliance of direction contained in the Order dated 04.07.2022 while disposing of writ application being W.P.(C) No.15542 of 2022.

7.18. The reason that the petitioner “has not preferred for the Homestead land during household survey” as assigned by the Superintending Engineer, Lower Suktel Resettlement, Rehabilitation C&B Division, Balangir (Annexure-7) while passing the Order dated 06.08.2022 is based on evidence on record and on proper appreciation of material available with the authority. The view expressed by the authority, Superintending Engineer, Lower Suktel Resettlement, Rehabilitation C&B Division, Balangir, cannot be said to be illogical, irrational or tainted with bias or *mala fides*. Hence, this Court desists from exercising power under Article 226 of the Constitution of India to show indulgence in favour of the petitioner’s claim for homestead land, even as the determination had been made with respect to “cash in lieu of homestead land”.

**8.** Sri Lalit Sahu, learned Advocate would submit that on the assurance by the Government that the petitioner would be relocated, he vacated house and land which are now completely submerged in the course of the irrigation canal. The petitioner has been rendered



homeless and landless since the date of vacating way back in the year 2001 (paragraph 17 of the writ petition). Although the petitioner had been waiting for allotment of homestead land he has not been communicated anything by the opposite parties.

- 8.1. To buttress such contention the learned counsel relied on *Krupasindhu Parida Vrs. State*, 1997 SCC OnLine Ori 163 = 83 (1997) CLT 760, wherein it has been observed as follows:

*“The present writ petition by twelve petitioners seeks the following reliefs:—*

*“\*\*\* issue a writ in the nature of mandamus or any other suitable writ quashing Annexure-4 series and directing the opposite parties to pay the present valuation of the agricultural and/or homestead land which stand due to the petitioners as given in Annexure-4 after deducting the amount already paid or direct the opposite parties to pay the 1978 value of the land with interest from 1978 and the valuation may kindly be fixed as per valuation in consolidation proceedings.’*

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7. *Having heard in details and considering the further affidavits filed on behalf of opposite party No. 1. We are of the view that as per the policy Resolution (Annexure-1) the required lands have not been given to the petitioners. Valuation of such land so made appears to be meagre and without any proper basis. Valuation claimed does not fulfil the test. The writ*



*petitioners are illiterate Scheduled Tribes. They have lost their hearth and home. The policy is very clear to provide alternative land for homestead and also for agriculture. It is not to deprive them by offering a price which is not just and fair. On perusal of the materials on record, we are of the view that the petitioners are moved from pillar to post and no effective steps have been taken. We find sufficient merit in the contentions of the writ petitioners. We accordingly allow the writ petition directing the Special Land Acquisition and Rehabilitation Officer to give a further opportunity of hearing in the petitioners and take effective steps to offer the land as per the policy and if the lands are not available, make proper valuation as on the date of offer to be made together with all recurring interest in the manner as provides in the Land Acquisition Act and settle the dispute within a period of three months from the date of communication of the order. There would be no order as to costs."*

8.2. This Court is afraid to grant similar benefit as is extended to the petitioners in *Krupasindhu Parida (supra)* inasmuch as the prayer made or relief claimed by the petitioner herein is quite different. In contrast with the prayer in *Krupasindhu Parida (supra)* as quoted hereinabove, in the present case the prayer of the petitioner is to quash the Order in Memo No.1856, dated 06.08.2022 (Annexure-7) and to provide the petitioner with a homestead land in Block-C Larkipali and Sadeipali Rehabilitation Colony.



8.3. Reliance is also placed on *Chintamani Mallik and Others Vrs. State of Odisha and Others*, 2016 SCC OnLine Ori 497 to contend that based on *Krupasindhu Parida (supra)* this Court granted relief to the petitioners. In the said case, viz., *Chintamani Mallik (supra)*, also the petitioner had the alternative prayer, which is completely lacking in the instant case. In the present case the petitioner has assailed the Order of Superintending Engineer (Annexure-7) passed pursuant to direction of this Court vide Order dated 04.07.2022 in W.P.(C) No.15542 of 2022.

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This Court observed:

- “15. When the petitioners were displaced from their homestead lands and agricultural lands in between 1978 to 1980 and by acquisition of such lands by Government, the petitioners were rendered homeless and landless and they had no other patch of land elsewhere, they should have been granted the benefits of rehabilitation policy as framed by the Government in Irrigation and Power Department under resolution dated 20.04.1977 immediately. There was inordinate delay for more than ten years at the level of the Government to decide the quantum of money to be paid per acre to the displaced persons as no free leasable Government land in the vicinity was available and accordingly in the year 1991, Rehabilitation Misc. Case No. 5 of 1991 was instituted for payment of rehabilitation cash grant assistance to the displaced persons and notices were issued to those persons including the petitioners. When there was laches on the part of Government in not paying the rehabilitation cash grant assistance immediately, the petitioners cannot be deprived of their legitimate expectation of receiving cash grant at the prevailing market rate of the lands when the offer was made. If the petitioners or the displaced persons like the petitioners would have got the rehabilitation cash grant sooner immediately after their displacement, it would have been better for them for making proper investment inasmuch as money not only has a monetary value but it has also got a time value.
16. In view of the submissions raised at the Bar and the statement of the learned Addl. Standing Counsel that the case of the petitioners is identical to *Krupasindhu Parida's* case, we allow the writ petition directing the opposite party no. 3 to give a further opportunity of hearing to the petitioners and take effective steps to offer the land as per the rehabilitation policy under Annexure-1 and if the lands are not available, to make proper valuation as on the date of offer to be made together with all recurring interest in the manner as provided in the Land Acquisition Act and settle the dispute within a period of three months from the date of communication of the order.”



8.4. Be that be, Sri Satyabrata Mohanty, learned Additional Government Advocate drew attention of this Court to a document titled “Entitlement Matrix of Displaced Families (DFs) of Village Khagasabahal— cut-off date 01.01.2020” enclosed as Annexure-4, whereby it is clearly reflected that the petitioner, whose name finds place at Serial No.26, has been extended the benefits *inter alia* Rs.85,825/- as against column No.18 with description: “Cash in lieu of Homestead Land”.

8.5. In such view of the matter, the prayer of the petitioner cannot be acceded to.

**Conclusion:**

9. *Ergo*, finding no merit, this writ petition stands dismissed along with pending Interlocutory Application(s), if any, but in the circumstances, there shall be no order as to costs.

I agree.

**(MANASH RANJAN PATHAK)**  
**JUDGE**

**(MURAHARI SRI RAMAN)**  
**JUDGE**