

IN THE HIGH COURT OF ORISSA AT CUTTACK
O.J.C. No.1846 OF 2002

Tilanath Nayak *Petitioner(s)*
Mr.B.B.Mishra,Adv.

-versus-

Joint Commissioner Settlement & Consolidation and others *Opposite Party(s)*
Mr.S.Ghose,AGA
Mr.R.K.Mohanty,Sr.Adv.

CORAM:
JUSTICE BISWANATH RATH

ORDER

22.09.2022

I.A. No.101 of 2018

Order No.

15.

1. This I.A. has been filed for substitution of the sole Petitioner.
2. Considering the submission made, prayer for substitution stands allowed and legal heirs of the deceased sole Petitioner be impleaded as newly added Petitioners.
3. I.A. stands disposed of.
4. Petitioner is permitted to bring L.Rs. of the deceased Petitioner on record by incorporating such names through handwriting in the cause title available on record in Court today.
5. Opposite Party No.5 can be represented through Opposite Party Nos. 4 to 7, there is already counsel appearing for Opposite Party Nos. 4 to 7. Misc. case accordingly stands dropped.

(Biswanath Rath)
Judge

ORDER
22.09.2022
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Order No.

16. 1. Heard learned counsel for the Parties.
2. This Court finds the moot question remains to be decided when the original authority comes to find in a Section 9 of the O.C.H. & P.F.L Act proceeding on the basis of material available through registered sale deeds, if the Appellate Authority as well as Revisional Authority has any scope while dealing with such registered sale deed to declare such sale deed bad and unenforceable. There is no dispute in the bar that the Appeal has been decided in the exercise of the Appellate Authority in going to the validity of sale deed. A revision being preferred and such a question being raised, it appears the Revisional Authority after discussion the case of the Parties in one para at page-64 disposes of the revision observing as follows:-

“Gone through the case records. Perused the documents filed by the parties and lower court records. From the appeal case it reveals that there is no partition among the recorded tenants. In the deed no 5669 dt.29.4.75 the chauhadi of the transferred plot has not been mentioned and khata No. has been wrongly mentioned. The learned Deputy Director, Bhadrak had rightly allowed the appeal cases.

In view of above I do not find any merit in these cases and same are dismissed.”

Reading the aforesaid, this Court finds there is no touching to the ground raised therein as such there is no finding to conclude such proceeding further on a lawful question as to whether authorities exercising under the provision of O.C.H. & P.F.L. Act have the jurisdiction to interfere in registered sale deeds?

3. In the process this Court interferes in the order at Annexure-10 and sets aside the same and as there is requirement of further adjudication of the Consolidation Revision Case Nos.536 of 1994, 92

of 1996 and 94 of 1996, this Court directs both the private parties to appear before the Commissioner concerned on 10th October, 2022 and take date of further hearing.

4. It is made clear while considering the Revisional Authority shall do well also attending to the question observed herein and giving finding of his own on the same and proceeding is also directed to be disposed of at least within a period of three months from the date of appearance of the Parties and in the involvement of Parties.

(Biswanath Rath)
Judge

Swarna

