

IN THE HIGH COURT OF ORISSA AT CUTTACK

SA Nos.87 AND 88 of 1991

State of Orissa, represented through Appellant
the Collector, Ganjam

-versus-

Mrutunjaya Padhi & Others Respondents

CORAM:
MR. JUSTICE D.DASH

ORDER
11.04.2022

Order No.

13. 1. These matter are taken up through hybrid arrangement (virtual/physical) mode as both the Appeals arise out of the common judgment and decrees passed in T.A. No.34/90 (71/89 GDC) and T.A. No.44/90 (74/89 GDC).
2. Mr.G.N. Rout, learned Additional Standing Counsel for the State-Appellant files a memo in Court today annexing the letter dated 04.04.2022 of the Tahasildar, Digapahandi, Ganjam, which is taken on record.
3. The State has filed the above noted Second Appeals under section 100 of the Code of Civil Procedure (for short, 'the Code') assailing the common judgment followed by the decrees passed by the learned 1st Additional District Judge, Berhampur in T.A. No.34/90 (71/89 GDC) and T.A. No.44/90 (74/89 GDC). By the same, the First Appellate Court has dismissed the First Appeal filed by the present Respondents 2 to 4 (Defendants 1 to 3) under section 96 of the Code in questioning the judgment and decree passed by the Trial Court in T.S. No.121 of 1986 and so also the Appeal filed by the State.

4. Heard Mr.G.N.Rout, learned Additional Standing Counsel for the Appellant and Mr.D.Mohapatra, learned counsel for the Respondents.

5. At the outset, it is stated by the learned Additional Standing Counsel that the last settlement operation in the area has been completed on 31.08.1999, i.e., long after filing of the present Second Appeals. He further submits that the land measuring Ac.0.05 decimals out of total area of Ac.3.90 decimals under plot no.168 with specific land boundaries is the schedule land. In the Settlement operation, Sabik plot no.168 has been bifurcated to multiple Hal plots. He further submits that during settlement operation, it has not been possible to trace out that Ac.0.05 decimals of land under Sabik plot no.168 for which the present status of that Ac.0.05 decimals of land in the field is untraceable when the fact stands that many Hal plots linked to Sabik plot no.168 have been settled in favour of different raiyats of that village under Land Encroachment Cases and Gramakantha Paramboke Cases under the Orissa Government Land Settlement Act. In support of the above, he has invited the attention of the Court to the letter of the Tahasildar, Digapahandi, Ganjam filed with the Memo.

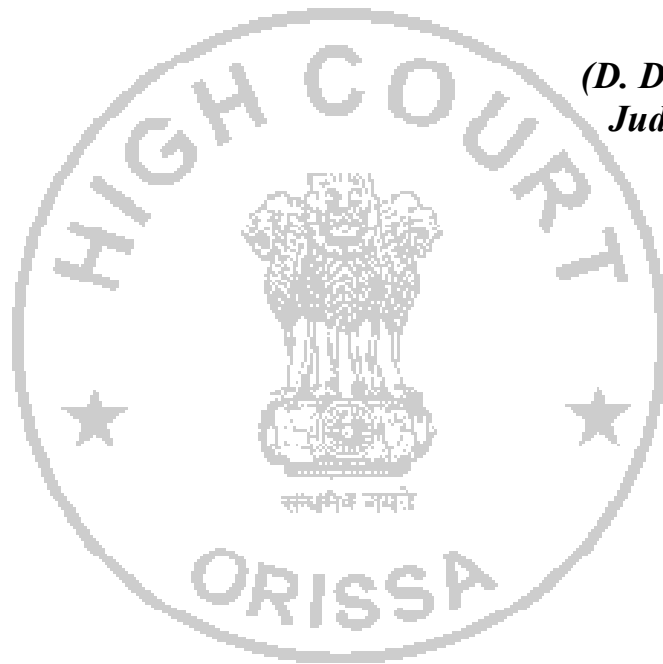
6. In view of the above, he submits that practically no cause of action at present subsists in favour of the State to further pursue these two Appeals. He thus contends that even if in these Appeals, the substantial question of law are answered in favour of the State-Appellant, it would practically serve no purpose when the subject matter for which the State has been running in the Courts below as

well as before this Court is no more traceable on account of the later development.

7. Taking into account the submission that the answer to the substantial question of law would serve no real purpose for the Appellant but would merely be of academic interest; the Appeals stand dismissed.

There shall, however, be no order as to cost.

Basu



***(D. Dash),
Judge.***