

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.2377 of 2004

Nisanta Sahu

....

Petitioner(s)

Mr. J. Biswal,
Advocate

-versus-

State of Orissa and Ors.

....

Opposite Party(s)

Mr. S. Ghose,
Addl. Govt. Adv.

CORAM:

JUSTICE BISWANATH RATH

ORDER

21.09.2022

Order No.

05.

1. This Writ Petition involves a challenge to the alleged *ex parte* order U/s.8(A)(I) of the O.L.R Act.
2. There is no dispute at Bar that the proceeding U/s.8(A) of the O.L.R. was instituted on the report of the Revenue Inspector finding that the status of the land involved herein is different than the land that mentioned in the record of rights at Annexure-2.
3. Taking this Court to the impugned order reading together with the grounds taken in the Writ Petition, Mr. Biswal, learned counsel for the Petitioner submits that there has been *ex parte* disposal of the matter. Reading through the order dated 11.08.2003 this Court also finds, the matter has been decided of course for non-cooperation of the Petitioner as the Petitioner was found to be absent on call. For the *ex parte* nature of the impugned order, Mr. Biswal, learned counsel for the Petitioner requests remand of the proceeding to the original authority and for fresh adjudication of the dispute after involving the Petitioner.

4. Mr. Ghose, learned State Counsel in an attempt to oppose the claim of the Petitioner, reading through the order dated 11.08.2003 attempts to support the impugned order on the premises that in spite of notice the Petitioner did not attend. Thus no blame can be put on the competent authority and Petitioner if suffers, suffers for his own latches.

5. Considering the rival contentions of the parties, this Court on perusal of the entire order sheet at Annexure-5 (series) finds, the Section 8(A) proceeding was instituted on the basis of the information through the R.I report involving the proceeding dated 31.07.2003 i.e. a part of Annexure-8. This Court finds, there is clear recording of the Tahasildar thereby directing for initiation of the Section 8(A) proceeding thereby also directing for issuance of notice to the Opposite Party to appear in his Court on 11.07.2003. It nowhere shows; as to what happened on the notice aspect and whether the service of notice on the Opposite Party i.e. present Petitioner is sufficient? The Writ Petition was entertained in the year 2007 and is still pending.

6. It is, in the above view of the matter and for no clarity comes through the impugned order and further from the order dated 11.08.2003, this Court finds, the proceeding has been concluded even in non-appearance of the Petitioner. This Court observes, for the *ex parte* nature of order and for the grievance involved herein, the party likely to be aggrieved by order ought to have been involved.

7. In the circumstance this Court interfering in the impugned order at Annexure-8, sets aside the same and as there is requirement of fresh adjudication of the Section 8(A)(I) proceeding, the matter is remitted back to the Tahasildar for re-adjudication of the disputed involved therein also involving the Petitioner i.e. the Opposite Party therein.

8. The Petitioner is directed to appear before the Tahasildar along with a certified copy of this order on 29th September, 2022 and also with his grounds to challenge on initiation of such proceeding.
9. The entire exercise shall be concluded within a period of two months from the date of appearance of the Petitioner.
10. The writ petition stands disposed of with the above order.

(Biswanath Rath)
Judge

Ayaskanta Jena

