

IN THE HIGH COURT OF ORISSA AT CUTTACK

O. J. C. Nos.4599 and 4600 of 1994

Ramamani Mohapatra
(In OJC No.4599 of 1994)

.... ***Petitioners***

Somanath Mohapatra
(In OJC No.4600 of 1994)

Mr. D. P. Mohanty, Advocate

-versus-

State of Odisha and others

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

Mr. Debakanta Mohanty, AGA and
Mr. A. Mahanta, Advocate for Opp. Party No.4

CORAM:
THE CHIEF JUSTICE
JUSTICE R. K. PATTANAİK

ORDER
03.01.2022

Order No.

13. 1. Both these petitions arise out of orders of Additional Tahasildar, Bhubaneswar recognizing Sri Lord Lingaraj Mohaprabhu Bije, Bhubaneswar Marfat Trust Board as the entity in whom the properties of the deity would vest with effect from 18th March, 1974 together with the right to receive the rent, cess, etc.
2. As far as the Petitioners are concerned, they were asserting their right to continue in the property as successors-in-interest of the tenants “till the rendering of service of deity”. The impugned orders appear to recognise the right of such ‘tenants’.

3. The prayer is that the word ‘tenant’ should include the successor-in-interest who steps into the shoes of such tenant whether by way of inheritance or by transfer.

4. Mr. Debakanta Mohanty, learned Additional Government Advocate points out that this cannot be automatically inferred since the original tenants were Sevayats and the authorities would have to conduct an independent enquiry to ascertain whether any of the present Petitioners, claiming to be the legal representatives of the erstwhile tenants, can continue in the property in the capacity of a Sevayat. He adds that a mere transferee may not have such a right to continue as ‘Sevayat’.

5. Mr. Mohanty, learned counsel for the Petitioners states that he may be permitted to agitate the right of the Petitioners to continue in the property in appropriate appellate proceedings against the impugned orders, which he wishes to institute in accordance with law.

6. It may be noted here that during the pendency of these petitions, there has been no interim order passed in favour of the Petitioners. It would be open to them to agitate the above limited issue of their right to continue in the property either in the appellate proceedings if such appeals are filed not later than 7th February, 2022 or any appropriate separate proceedings instituted within the same date in accordance with law.

7. The Court declines to interfere with the impugned orders and grants liberty to the Petitioners to the limited extent in the above terms.

8. Both the petitions and all pending applications are accordingly disposed of.

9. Issue urgent certified copy of this order as per rules.

M. Panda



(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge