

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 13567 of 2013

Bishnu Prasad Mohanty and others* *Petitioners

Mr. Soumya Mishra, Advocate

-versus-

State of Odisha and another* *Opp. Parties

Mr. Dillip Kumar Mishra,

Additional Government Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

11.02.2022

Order No.

IA No.10725 of 2021 & Misc. Case No.12697 of 2013

W.P.(C) No. 13567 of 2013

5. 1. This matter is taken up through Hybrid mode.
2. IA No.10725 of 2021 has been filed by the State-
 Opposite Parties for vacation of interim order dated 21st June,
 2013 passed by this Court in Misc. Case No.12697 of 2013.
 The interim order reads as follows:-

“Heard

संक्षेपिक न्यायो

*There shall be interim stay of further proceeding in
Objection Case No.2880 of 1996 pending before the Sub-
Collector-cum-Consolidation Officer, Puri, opposite party
no.2 till the next date.”*

3. In course of hearing of the IAs, it is felt necessary that
the merit of the writ petition has to be gone into. Learned
counsel for the parties, therefore, agreed for final disposal of the
writ petition. Accordingly, this Court proceeds to take up the
writ petition for final disposal.
4. This writ petition has been filed assailing the order dated
5th June, 2013 (Annexure-8) passed by the Sub-Collector-cum-

Consolidation Officer, Puri-Opposite Party No.2 in Objection Case No. 2880 of 1996.

4.1. Grievance of the Petitioners in this writ petition lies in a narrow compass. During pendency of the consolidation operation, the Petitioners filed an application on 17th October, 2012 (Annexure-4) to direct the Objector-State of Odisha represented through Collector, Puri to produce the tenant ledger of Sabik Khata No.70 of mouza Sipasurubuli and compensation case record bearing No.344 of 1957-58. The petition under Annexure-4 was rejected vide order dated 21st November, 2012 on the ground that it was filed at a belated stage. Assailing the same, the Petitioners approached this Court in W.P.(C) No.2186 of 2013 and this Court vide order dated 31st January, 2013 while setting aside the order dated 21st November, 2012, directed the Sub-Collector-cum-Consolidation Officer, Puri-Opposite Party No.2 to reconsider and pass a fresh order on the application of the Petitioners. Accordingly, the Opposite Party No. 2 reconsidered the matter and passed the impugned order under Annexure-8. It is submitted by learned counsel for the Petitioners that direction should have been issued to the Collector, Puri to produce the record. But Opposite Party No.2, without considering the same in its proper perspective, rejected the application vide order dated 5th June, 2013 (Annexure-8) holding that the Tahasildar, Brahmagiri in his letter No.1750 dated 4th June, 2013 reported that the tenant ledger and compensation case record are not available in his office.

5. It is submitted by Mr. Mishra, learned counsel for the Petitioners that the Petitioners have specifically contended before the Opposite Party No.2 that the records sought to be

produced are available with the Collector, Puri. Thus, there was no justification on the part of Opposite Party No.2 to ask the Tahasildar, Brahmagiri to produce the same and rejected the application by entertaining the letter No.1750 dated 4th June, 2013 of Tahasildar, Brahmagiri. In that view of the matter, he prays for setting aside the impugned order under Annexure-8 and remand the matter back to Opposite Party No.2 for fresh consideration of the application of the Petitioners by issuing direction to the Collector, Puri to produce the aforesaid records.

6. Mr. Mishra, learned Additional Government Advocate refuting such submission, contended that on receipt of the direction of Opposite Party No.2, the Tahasildar, Brahmagiri had a thorough search of the above noted records in his office but could not trace out the same. Accordingly, he intimated the same to Opposite Party No.2 vide his letter No.1750 dated 4th June, 2013. It is his submission that if the submission of Mr. Mishra, learned counsel for the Petitioners is accepted, then the Petitioners may apply for certified copy of the same before the Collector, Puri and produce the same before the Opposite Party No.2 for early disposal of the Objection Case.

7. Taking into consideration the submissions of learned counsel for the parties, this Court is of the considered opinion that in spite of direction of this Court dated 31st January, 2013 in W.P.(C) No.2186 of 2013, the records as aforesaid could not be produced on the ground that the same are not available in the office of Tahasildar, Brahmagiri. Thus, no fruitful purpose will be served by directing the Opposite Party No.2 to consider the said application afresh.

8. Accordingly, this Court disposes of this writ petition with a direction that in the event the Petitioners make an application before the Collector, Puri-Opposite Party No.1 for grant of certified copies of tenant ledger and compensation case record bearing No.344/1957-58 in respect of Sabik Khata No.70 of mouza Sipasurubuli within a period of two weeks hence along with certified copy of this order, the same shall be considered forthwith, if the records are available in the office of Collector, Puri and certified copies of the same shall be supplied to the Petitioners within a period of four weeks from the date of making such application on compliance of deficiency, if any, in the said application. If, for any reason, the Collector, Puri is of the opinion that those documents/records cannot be supplied to the Petitioners, reason thereof shall be intimated to the Petitioners within the aforesaid period.

9. In view of disposal of the writ petition, interim order dated 21st June, 2013 passed in Misc. Case No.12697 of 2013 stands vacated. Accordingly, both the I.As. stand disposed of.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge

bks/ms