

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C) No.5617 of 2004

Birsing Murmu & Ors.

....

Petitioner(s)

Mr. S. Roy,
Advocate

-versus-

The Collector, Mayurbhanj & Ors.

....

Opposite Party(s)

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

CORAM:

JUSTICE BISWANATH RATH

ORDER

24.08.2022

Order No.

10.

1. This writ petition involves a challenge to the impugned order at Annexure-7 passed by the Tahasildar, Betnoti in Mutation Case No.1684 of 2002.

2. This writ petition involves an allegation of non-compliance of natural justice at the time of conclusion of the Mutation Case. Leaned counsel for the Petitioner submitted that there should be rehearing of the matter involving the Petitioners concerned as their right over the disputed property has been taken away in such proceeding.

3. Considering the grounds taken herein, the submissions of the respective counsel and going through the order-sheet at Annexure-7, this Court finds from the order dated 24.01.2003 that there is clear recording that the S.R back after service, but however, the entire order-sheet nowhere discloses appearance of the Opposite Parties i.e. the present Petitioners. So no fault can be found with the competent authority in deciding the matter in favour of the Petitioners therein as the contesting Opposite Parties i.e. the Petitioners herein did not put up

their case even. However considering that there is continuance of the order of status quo and taking into account the objection of the learned State Counsel that since there was statutory provision of appeal no writ petition should have been entertained involving the order passed in the Mutation Case involved herein, this Court observes, in the event the Petitioners are still in possession of the property in question, they shall have option of the appeal along with an application for condonation of delay. In the process, this Court in disposal of the Writ Petition directs, if such appeal is filed along with appropriate applications also with a copy of this order at least within a period of three weeks from today, the appeal shall be decided on merit in accordance with law within a period of four months from the date of its filing. Interim application to be filed shall be decided within a period of one week from the date of its filing. For six weeks there shall be continuance of the interim order already passed in entertainment of the writ petition.

4. The writ petition stands disposed of.

(Biswanath Rath)
Judge