

IN THE HIGH COURT OF ORISSA AT CUTTACK

O.J.C. No.13217 of 2001

Nabin Chandra Das & Ors. ***Petitioner(s)***
Mr. G.P. Dutta,
Advocate

-versus-

State of Orissa & Ors. ***Opposite Party(s)***
Mr. S. Ghose,
Addl. Govt. Adv.

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
12.10.2022**

Order No.

07. **1.** This matter involves a challenge to the order at Annexure-5.
- 2.** Taking this Court to the order at Annexure-5 and the grounds raised herein, learned counsel for the Petitioners contended that once there is ascertainment of some irregularities by the competent authority involving a proceeding under Section 3-a(i) of the Orissa Scheduled Areas Transfer of Immovable Property (by Scheduled Tribes) Amendment Regulation, 1996, opportunity should have been provided to the vendor or the owner in occupation, in absence of which it is contended by the learned counsel for the Petitioner that no such order is sustainable in the eye of law. Learned Counsel for the Petitioner thus requests this Court for interfering with the impugned order and setting aside the same.
- 3.** Learned Additional Government Advocate, on the other hand, contended that since the Petitioners participated in the proceeding, nothing prevented the Petitioners to produce such records / information

as indicated in the detection of analysis appearing in the impugned order at Annexure-5. Learned Additional Government Advocate thus contended that there is no infirmity in the impugned order, and therefore, there is no requirement for interfering with the same by this Court.

4. Considering the rival contentions of the parties and on perusal of the detection of irregularity in the order at Annexure-5, this Court finds, the Petitioners are justified in making an allegation that once the authority asserts any irregularity, there should have been an intimation to the vendor or the person in occupation of the land in a way to clarify such irregularity. The impugned order since based on detection on such irregularity and without clarification on the same, this Court is of the opinion that such orders since taken away a valuable right over the property not sustainable in the eye of law. For failure of appropriate exercise of power by the competent authority, this Court interferes with the impugned order at Annexure-5 and sets aside the same and remits the matter to the competent authority to dispose of OSATIP Review Case No.64/98 in accordance with law and giving opportunity of objection and contest to the Petitioners as well as other parties. It is observed that in the event of death of any party, Petitioners may be permitted to come forward for substitution before disposal of the proceeding.

5. For disposal of the matter in presence of the Petitioners, this Court directs the Petitioners to bring the direction of this Court to the notice of the Collector, Rayagada for re-disposal of the proceeding, indicated hereinabove by appearing before him along with copy of this order on 28th October, 2022. The exercise involving the fresh disposal of the matter will also be concluded within four months.

6. The Writ Petition stands disposed of.

7. Issue urgent certified copy on proper application.

(Biswanath Rath)
Judge

Ayaskanta Jena

