

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.138 OF 2022

Ugresen Mangaraj @ Ugrasen ***Petitioner***
Mangaraj

Mr. Bidesh Ranjan Behera, Advocate
-versus-

Member, Board of Revenue, Odisha, ***Opp. Parties***
and others

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
06.01.2022

Order No.

01. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition seeks to assail the order dated 29th July, 2021 (Annexure-7) passed by the Additional Commissioner, Additional Revision Court, Bhubaneswar in OSS Case No.1638 of 2019 filed under Section 15(b) of the Orissa Survey & Settlement Act, 1958 (for short 'the Act').
3. Mr. Behera, learned counsel for the Petitioner in addition to his argument on merit of the impugned order, submitted that the matter was posted to 29th April, 2021 on which date due to the situation prevailing for COVID-19, the case was adjourned to 28th September, 2021. But, without any notice to the Petitioner, the revision was taken up on 29th June, 2021 and hearing of the matter was closed on that date and the impugned order has been passed on 29th July, 2021.
4. It is further submitted that there was delay in filing the revision under Section 15(b) of the Act, which was considered along with the merit of the revision petition. No opportunity of

hearing was given to the Petitioner, who was Opposite Party No.4 in the revision petition. The revisional court proceeded with the matter by advancing the date of hearing without serving any notice either on the Petitioner or on his learned counsel. As such, the Petitioner, who was Opposite Party No.4 in the revision petition kept in dark about the date of hearing. He, therefore, prays for setting aside the impugned order under Annexure-7 and to remit the matter back to the revisional court for fresh disposal giving opportunity of hearing to the Petitioner on the question of limitation as well as on merit.

5. Mr. Mishra, learned Additional Standing Counsel for the State submits that prima facie it appears that while advancing the date of hearing of the case, the Petitioner was not served with any notice. However, the matter requires a factual adjudication and if a petition to that effect is filed, the same can be effectively taken into consideration by the revisional court.

6. Taking into consideration the submissions made by learned counsel for the parties and on perusal of the record, this Court finds from the order sheet of OSS Case No.1638 of 2019 annexed to the writ petition as Annexure-6 that the case was posted to 29th April, 2021 on which date hearing could not be held due to the situation prevailing for COVID-19. The matter was accordingly adjourned to 28th September, 2021. But, it appears from Annexure-6 that the case was taken up on 29th June, 2021. It is, however, not clear as to whether the Petitioner has been served any notice for hearing of the case on 29th June, 2021. It further appears that the petition for condonation of delay was taken up along with the merit of the revision petition.

In that view of the matter, this Court is of the considered opinion that the matter requires fresh consideration.

7. In view of the discussion made above, this Court disposes of the writ petition with a direction that in the event the Petitioner files an application for recall of the order dated 29th July, 2021 (Annexure-7) passed by the Additional Commissioner, Additional Revision Court, Bhubaneswar within a period of two weeks hence along with certified copy of this order, the revisional court shall consider the same affording opportunity of hearing to the parties concerned and pass a reasoned order thereon as expeditiously as possible preferably within a period of two months therefrom.

8. Till disposal of such application, if filed within the stipulated period, as aforesaid, the impugned order under Annexure-7 shall not be given effect to.

9. Accordingly, this writ petition is disposed of.

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

(K.R. Mohapatra)
Judge

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