

IN THE HIGH COURT OF ORISSA AT CUTTACK
O.J.C. No.7698 of 1995

Smt. Priyambada Kar

....

Petitioner(s)

Mr. D.P.Mohanty,
Advocate

-versus-

State of Odisha & Ors.

....

Opposite Party(s)

Mr.U.K.Sahoo,
ASC

CORAM:
JUSTICE BISWANATH RATH

ORDER
09.05.2022

Order No.

08.

1. Heard learned counsel appearing for the parties.
2. Even though the writ petition involves variety of grounds but, however, confining to the question of law involved herein as to for the initiation of a revisional exercise by the Collector under the provision of section 12(2) of the O.P.L.E. Act, 1972, even though there is no prescription of limitation in initiating of suo-motu revision, whether a revision of this nature can be initiated after loss of four years of the settlement of disputed land involved herein?
3. Mr.Mohanty, learned counsel appearing for the petitioner taking through Annexure-2 submitted that there has been already contested order for settlement of the disputed land being passed by the Sub-Collector on 15.10.1991. It is at this stage, taking this Court to the proceeding disposed of vide Annexure-6 registered as O.P.L.E. Rev.No.3 of 1995, Mr.Mohanty, learned counsel for the petitioner advances his submission that once the settlement proceeding was closed on 15.10.1991, limitation even assuming the settled position of law taking care of the prescribed limitation under Article 137 of the Limitation Act, no such revision is entertainable after expiry of period of 3 years from the date of settlement

order 15.10.1991. It is at this stage of the matter, Mr.Mohanty, learned counsel for the petitioner however taking this Court to the provision at Section 12(2) of the O.P.L.E. Act, 1972 contended that it may be wrong to submit that the Collector has no power to initiate such revision but there should not be any doubt that initiation of revision after four years of incident moved the suo motu revision by the Collector becomes not entertainable. However, on the challenge of the petitioner to the question of limitation in initiation of revision by the Collector, Mr. U.K.Sahoo, learned counsel for State, however did not dispute to the order of settlement being passed vide Annexure-2 on 15.10.1991. There is also no dispute with regard to initiation of suo motu revision proceeding by the Collector in the year 1995. It is stated though there is no difficulty in initiating the proceeding under Section 12(2) of the Act, 1972 but, however, it should have been initiated within 3 years of the order involving settlement of the disputed land.

4. Perusal of the L.C.R. involving the case being produced by Mr.Sahoo, learned Additional Standing Counsel, this Court finds the revision proceeding was initiated on 28.03.1995. For the disclosure of the date of development taking place, in the allowing of settlement taking place on 15.10.1991, here this Court finds undisputedly the revision was initiated after lapse of 3 years. It is taking into account the provision relied on by Mr.Sahoo, learned State counsel though Section 13 and contending that for the statute prescribing limitation for appeal in absence of any prescription of limitation in preferring revision, there is no restriction in initiating the revision after 4 years, This Court though finds there is no prescribed limitation in preferring revision under Section 12(2) read with section 13 of the Act, 1972 but, however, looking to the decision of Division Bench in the case of *Smt.Sarojini Mallick –Vrs.- State of Odisha & Others*, 2005 (I) OLR-666 again involving a case of similar nature under the same Act, 1972, this Court finds taking into account the provision prescribing maximum period of limitation through Article 137

of the Limitation Act, the Division Bench has come to hold that maximum period in initiation of revision under Section 12(2) of the Act, 1972 appears to be 3 years. This Court though satisfied with the submission of Mr. Sahoo, learned State Counsel that the Collector has the suo motu power of revision, in the given circumstance under the provision of Section 12(2) of the Act, 1972 but looking to the date of initiation of suo motu revision finds the suo motu revision has been initiated almost 4 years after the cause of action and such revision suffers on account of limitation.

5. It is in this view of the matter and for the settled position of law already through a Division Bench of this Court, this Court has no hesitation in declaring the initiation Suo-moto Revision instituted on 28.03.1995 suffers on account of limitation. As a consequence, this Court declares the order at Annexure-6 involving such non maintainable Revision also bad.

6. In the result, the writ petition succeeds. There is no order as to cost.

(Biswanath Rath)
Judge

S.P. Dash