

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.2466 of 2003

G. Sairam

....

Petitioner(s)

Mr. A.K. Nanda,
Advocate
Mr. G.N. Sahu,
Advocate

-versus-

***Officer on Special Duty (LR.),
Gunupur & Ors.***

....

Opposite Party(s)

Mr. S. Ghose,
AGA for O.Ps.1 & 2
Smt. J. Sahoo,
Advocate for O.P.3

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
14.10.2022**

Order No.

07.

1. Challenge in the Writ Petition is made to the order passed in the proceeding U/s.3(A) of the Regulation-II of 1956 being registered as OSATIP Case No.216/02 vide Annexure-3(series).

2. Challenging such order learned counsel for the Petitioner taking this Court to the evidence recorded in such proceeding as available at page 23 of the brief submitted that in spite of the Petitioner's claiming that he being a Non-Tribe person has purchased the property and there is valid permission order in his coming to possession of the disputed land and the person claiming recovery is not a tribe, the authority below has not taken such aspect into consideration. It is only on the premises and as the Petitioner had valid

permission in coming to possession, learned counsel for the Petitioner claims for interference in the impugned order and setting aside of the same.

3. Learned counsel for the private Opposite Party No.3 in entire reading of the deposition of such party submitted that there is no such material available on record to establish valid transfer. It is, on the other hand, learned counsel for the private Opposite Party No.3 submitted that since the impugned order has been passed on the basis of the materials available on record, there is not only any infirmity in the impugned order but there is also no scope for interfering in such order.

4. Learned State Counsel adopted the submission of learned counsel for the Opposite Party No.3.

5. Considering the rival contentions of the parties, this Court keeping in view the allegation involved herein in challenge to the impugned order at Annexure-3 (series) and getting into the deposition of the present Petitioner as Opposite Party therein, finds, the present Petitioner in his deposition has stated as follows:-

“I am the O.P. in this case. That it is not a fact that I am not possessing the land of the petitioner in this case. That I am possessing my own land. It is totally false that I have mortgaged the tribal land. So I pray the Hon’ble court to drop the case.”

6. Similarly looking to the deposition of the Tribe man involved this Court from page 24 finds the following deposition has been made by the Tribe person:

“I am the petitioner in these cases. That it is a fact that the case lands were mortgaged by my deceased brother Purandar Kadraka and the O.Ps are residing after constructing house over the land Ac.0.05 and balance land has been cultivated by him. Now this land

is under their possession. I pray the Hon'ble court to restore the land as I have not sold the same."

7. Reading both the above statements, this Court finds, when the Tribe man claims, there is no sale of the property involved herein and the Petitioner herein came to possess on the basis of some mortgage, the only statement by the present Petitioner as Opposite Party in the proceeding is; he is in possession of the property. There is no material produced whatsoever in nature to establish that he is getting into possession over the property after having a valid permission and / on transaction and that he has right on the basis of any document. For the impugned order being passed on the materials available on record this Court finds no scope for interfering in such orders.

8. The Writ Petition stands dismissed.

(Biswanath Rath)
Judge

Ayaskanta Jena

