

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.8611 of 2003

Suru Anuradha

....

Petitioner(s)

Mr.S.S.Rao, Advocate

-versus-

Tadingi Kothana and others

....

Opposite Party(s)

Mr.S.Mishra, ASC.

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
24.11.2022**

Order No.

9.

1. In spite of notice being served on contesting opposite parties through paper publication dated 09.11.2022, nobody is appearing for the said private opposite parties. Mr.Rao, learned counsel for the petitioner claims in similar situation, there has been disposal of three such writ petitions and the direction therein also covers to the case at hand.
2. Heard Mr.Rao, learned counsel for the petitioner and Mr. Mishra, learned Addl.Standing Counsel for the State.
3. Involving a challenge to the order at Annexure-4 particularly involving the Revision Case No.109 of 2001 arising out of Permission Case No.2 of 1997, Mr.Rao, learned counsel for the petitioner while submitting in his challenge to the impugned order that once a permission proceeding is initiated under the particular statute and concluded in the participation of the party seeking for permission for sale of particular land and party thereafter taking advantage of such permission enters into registered sale deeds ripping the benefit out of such registration, technical difficulties here and there should not come on the way of such transactions. In the process, Mr.Rao, learned

counsel sought this Court interference in the impugned order so far it relates to the above case.

4. Mr.Mishra, learned Additional Standing Counsel however taking this Court to the observation in paragraph-b at page- 27 of the review order contended that there has been mentioning of technical flaw by the Collector in the disposal of the permission proceeding. Reading through the same, Mr.Mishra, learned Additional Standing Counsel contended that there is no appropriate disposal of the permission proceeding involved therein justifying the impugned order and such order should not be interfered with.

5. Considering the rival contentions of the parties and on perusal of the permission order vide Annexure-3, reading through the same this Court finds there is clear recording of the competent authority on participation of the party and or representative of the person moving for such permission and it is only after participation of the applicant and entering into certain inquiries, the competent authority being satisfied with the requirement at the relevant point of time granted the permission. This Court, therefore, finds technical flow, if any, traced by the Reviewing Authority is not that material for taking out the permission granted in favour of the person in need of sale of such property that too after his reaping the benefit involving such transaction. Further, taking into consideration the nature of litigation involved subsequently initiation of review proceeding in the guise of amended provision brought in the year, 2000 to the main regulation, this Court again finds for the nature of proceeding of review, there is no scope available in review of such proceedings. Review involving such nature of case should have been exercised only in the case where there has been no seeking of permission and in the event of any glaring defect in the obtaining of permission. This Court does not find there is satisfaction of any of the above aspect. In the circumstance, this Court declares initiation of review proceeding in such situation as bad in law.

6. The writ petition succeeds with interference in the impugned order at Annexrue-3.

(Biswanath Rath)
Judge

Sks

