

IN THE HIGH COURT OF ORISSA AT CUTTACK

OJC No.14970 of 1998

Alok Kumar Das and others

....

Petitioners

Mr. A. K. Sahoo, Advocate

-versus-

State of Orissa and others

....

Opposite Parties

Mr. Debakanta Mohanty, AGA

CORAM:

THE CHIEF JUSTICE

JUSTICE R. K. PATTANAİK

Order No.

ORDER

15.03.2022

46.

I.A. No.33 of 2019

1. For the reasons stated therein, this application for substitution is allowed. The IA is accordingly disposed of.

2. The legal representatives of the Petitioner as indicated in the application are brought on record.

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3. With the long passage of time, it is not clear what the ground reality is as far as the possession of the lands in question is concerned. The Court finds that one of the orders under challenge before this Court in this petition is dated 12th May 1998, passed by the Tahasildar, Chandabali in Khasmahal Transfer Case No.17 of 1990, which had been filed by Sri Mukhtikanta Sahoo, son of Indramani Sahoo asking that lands in Plot Nos. 271 and 272 in Khata No.8 in Mouza Chandabali, should be settled in his favour by way of renewal of the term that was ending in 1990. Likewise

Petitioners 2 and 3 herein had filed Transfer Case No.16 of 190 for similar reliefs. An inquiry report had been called from the Revenue Inspector, Chandabali and even public objections were invited by an order dated 1st November, 1990.

4. However, on 12th May 1998, when the cases were finally listed, the Tahasildar dropped the cases by passing the following order:

“This is put up to me today. The petitioner is absent on call. The petitioner is neither a leasee nor a subleasee. The petitioner has submitted in his plaint that the suit plots are the Khasmahal lease hold plots of Sisir Kumar Das. The Original Khasmahal Case No.4/1981 of Sisir Kumar Das has been dropped due to non appearance. Hence this case is dropped.”

5. Consequent thereupon, encroachment cases were initiated against the present Petitioner Nos.2 and 3 by the Tahasildar. In the meanwhile, in the present petition, on 9th November 1998, this Court had directed that the Petitioners should not be evicted from the disputed property “if not already evicted”.

6. Subsequently, when a parcel of land was sought to be put to auction, the Petitioners filed a Misc. Case No.5243 of 2000 on 8th June 2000, praying that the Opposite Parties, including the successful bidder Sri Achyutananda Behera, should be restrained from coming to the disputed property, including the tank in question, till the disposal of the writ petition. On this application, on 11th April 2001, it was directed by this Court that the possession of the Petitioners shall not be disturbed by any person including the Opposite Party No.4 i.e., Achyutananda Behera, who had been

impleaded separately by an order dated 30th June 2000 in Misc. Case No.5242 of 2000.

7. That was the last effective order in the present petition. In other words, in over two decades now, there have been no effective orders in the present petition.

8. With the Petitioners' possession of the property in question standing protected by a series of interim orders and that status quo continuing till date, the Court considers it appropriate to issue the following directions:

(1) The impugned order dated 12th May 1998, passed by the Tahasildar, Chandabali is set aside and the Khasmahal Transfer Case Nos.16 and 17 of 1990 are restored to the file of the Tahasildar, Chandabali for being proceeded with in accordance with law.

(2) In the said proceedings, the impleaded Opposite Party No.4 Sri Achyutananda Behera will be heard, after notice is issued to him in accordance with law.

(3) Any other person who may have any interest in the property in question will also be heard by the Tahasildar.

(4) The case will be listed before the Tahasildar for directions on 4th April, 2022. A downloaded copy of this order will be produced before him by the Petitioners not later than 30th March, 2022.

(5) The Tahasildar is requested to dispose of the aforesaid cases after hearing the parties in accordance with law within a period of six months thereafter.

(6) Till the disposal of the above cases by the Tahasildar, the status quo as of today shall be maintained.

9. The writ petition and the contempt petition and all pending applications are disposed of in the above terms.

S. Behera

