

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.11352 of 2005

Padmalava Dash & Ors.

....

Petitioner(s)

Mr. N.P. Parija,
Advocate

-versus-

State of Orissa & Ors.

....

Opposite Party(s)

Mr. S. Mishra,
Addl. Standing Counsel

CORAM:
JUSTICE BISWANATH RATH
ORDER
26.08.2022

Order No.

10. 1. This writ petition involves a challenge to the order of the competent authority appears to have been passed U/s.15(b) of the O.S.S. Act.
2. For the submission of Mr. Parija, learned counsel for the Petitioners that the proceeding U/s.15(b) of the O.S.S Act involves a wrong recording taken place entering into a settlement process in the year 1988 and the Petitioners were all resident of the very same area, this Court finds, it cannot be believed that the Petitioners were unaware of the settlement process. Further since the R.P. Case involved is dismissed only on the ground of limitation; this Court finds, law has been fairly well settled by this Court as well as by the Hon'ble apex Court that the approach involving any action of the administrative or authority cannot be entertained beyond three years in the maximum unless there involves an allegation of fraud. Undisputedly the dispute involves a cause of action of the year 1988

and there is no plausible ground to satisfy the delay of 15 years in coming to the Court. For the settled position of law this Court finds, there is no infirmity committed by the Revenue Authority in dismissing such proceeding on the ground of fifteen years delay.

3. Mr. Parija, learned counsel for the Petitioners also relied on a decision of this Court in the case of *Narendra Kumar Mohapatra Vrs. Joint Commissioner, Settlement and Consolidation & Ors.* as reported in **2008 (II) CLR 663**.

4. Looking to the decision cited above and for the change in the legal position involving this issue, this Court finds, the aforesaid decision has no application to the case at hand.

5. It is, at this stage of the matter, Mr. Parija, learned counsel for the Petitioners prayed for withdrawal of the writ petition with liberty to the Petitioners to approach under any other legal provision available.

6. This Court expresses no opinion; if the Petitioners have any such efficacious remedy, but however, allowing withdrawal of the Writ Petition, permits the Petitioners to avail such opportunity under proper Law.

7. The writ petition stands disposed of as withdrawn but with liberty as prayed for.

(Biswanath Rath)
Judge