

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.10176 of 2005

Dr. Bararuchi Dash and others ***Petitioners***

Mr. Manas Chand, Advocate

-versus-

State of Orissa and others ***Opposite Parties***

Mr. Debakanta Mohanty, AGA and

Mr. B. P. Tripathy, Advocate for Intervenor

**CORAM:
THE CHIEF JUSTICE
JUSTICE R. K. PATTANAİK**

**ORDER
23.03.2022**

Order No.

02. 1. The challenge in the present petition is to the allotment of plot of land bearing Plot No.621/3 with Kisam Patit under Khata No.773/2/1 of an area of Ac.0.44 decimal in village Baripada in favour of the Hindustan Petroleum Corporation Ltd., (HPCL) by the Tahasildar, Baripada.
2. During the pendency of the present petition, the Petitioner No.1 expired and his legal representatives (LRs) have been brought on record.
3. The background facts are that the plot in question was originally allotted to Petitioner No.1 for construction of 'Hotel Ashoka', on leasehold basis. The lease deed dated 6th April, 1981 was executed between the Sub-divisional Officer, Baripada and the Petitioner No.1. However, possession of the land could not be handed over since the Education and Youth Services Department, Government

of Orissa requested the Collector and District Magistrate, Mayurbhanj to stop construction work of the hotel by a letter dated 23rd July, 1981. Accordingly, an instruction was issued on 21st September, 1981 to the Petitioner No.1 not to undertake any construction on the lease land till it was finalized by the Government.

4. On 11th November, 1982, the Revenue Department gave clearance for resumption of the land. A 'major settlement' was held in 1983-84 and as per the publication of 1985, the land was kept under the Government Khata. A part of the suit land measuring 0.26.500 under Hal Khata No.246, Plot No.468/1 Kisam Patit in Mouza-Baripada Town Unit-3 was leased out in favour of HPCL for establishment of a retail outlet. This was approved by District Site Selection Committee. A lease deed in favour of HPCL was executed on 2nd July, 2004 on payment of premium as per highest sale statistics.

5. The Court is informed that even today the retail outlet of HPCL is operating on the aforementioned land. As of today, the remaining part of the land also is recorded in favour of the Government. It has been pointed out that before sanction of lease in favour of HPCL, a general proclamation was issued inviting public objections under Rule 5(5) of the OGLS Rules. It is stated that no objection was received from the Petitioners at that point in time. It is further pointed out by subsequent affidavit of Opposite Parties 2 and 3 dated 7th September, 2013 that land to an extent 0.265 decimals has been recorded in the name of the HPCL under new Khata

No.227/246. The rest of the land has been alienated in the name of the Tourism and Culture Department, Government of Odisha.

6. It may be noted here that there is no interim order passed by this Court in the present petition. Consequently, in the last over 17 years, the above status quo of HPCL running its retail outlet in one portion of the land and the remaining portion being alienated in the name of the Tourism and Culture Department has continued.

7. No case has been made out by the Petitioners for reviving the lease in favour of Petitioner No.1 since in any event no construction came to be made on the suit land during 20 years of the lease being in favour of Petitioner No.1. The Court is unable to find any illegality committed by the Opposite Parties in the matter.

8. No grounds have made out for interference or for the grant of the relief as prayed for. The writ petition is dismissed.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

M. Panda