

IN THE HIGH COURT OF ORISSA AT CUTTACK

O.J.C. No.2748 of 2000

Brahmananda Dash

....

Petitioner(s)
Mr.P.K.Routray.
Advocate

-versus-

Commissioner, Consolidation & Ors.

....

Opp.Party(s)
Mr.S.Ghose, AGA

CORAM:

JUSTICE BISWANATH RATH

ORDER

26.08.2022

Order No.

26.

1. Heard learned counsel appearing for the parties.
2. The matter involves a challenge to the order at Annexure-6 in deciding Consolidation Revision Case No.1449 of 1994. Avoiding unnecessary details, straightway coming to the grounds of challenge to the revision that when the Appellate Authority decided the matter taking into account the R.S.D. vide Annexure-1, the Appellate Authority failed in considering the R.S.D. available for the purpose giving some right in favour of the present petitioner, if justified?
3. Taking into account the rival contentions of the parties and perusal of the appellate order at page- 42 vide Annexure-5, this Court finds there has been threadbare discussion on the right of the petitioner involving the sale deed vide Annexure-1 and a conclusion is drawn by the Appellate Authority in allowing the case of the petitioner having a foundation through Annexure-1. Coming to the question raised involving revision at Annexure-6, this Court in entire reading of the revision finds the Revisional Authority has not at all taken into account the R.S.D. available for the purpose. The Revisional Authority order appears to be solely on the basis of reference of some munsarim's report placed in E/478. In the circumstance and for availability of concrete material by way of R.S.D, this Court finds there is failure of

exercise of power by the Commissioner, Consolidation in deciding a revision of this nature. This Court finds there should be all readdress to the issue involved herein keeping in view the registered sale deed vide Annexure-1. As a consequence, this Court interfering in the order at Annexure-6, sets aside the same. However, for there is requirement for fresh hearing, the Consolidation Revision Case No.1449 of 1994 is remitted back to the Commissioner, Consolidation, Odisha for re-disposal of the revision keeping in view the development vide Annexure-1. Since the matter is decided involving all parties through contest, all the parties to contest are directed to appear before the Commissioner, Consolidation along with certified copy of this order on 19.09.2022 and take the date of fresh hearing. The revision remanded shall also be disposed of afresh at least within a period of three months from the date of appearance of the parties.

4. The writ petition stands disposed of but however with an order of remand.

(Biswanath Rath)
Judge

Sks

