

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C). No.1274 of 2006

Jagannath Sarangi & Ors.

....

Petitioner(s)

Mr.B.Routray, Sr. Adv.

-versus-

Baisakhu Rohidas & Anr.

....

Opposite Party(s)

Mr.S.P.Panda, AGA

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
21.11.2022**

Order No.

6

1. Heard learned counsel appearing for the parties.
2. Office note makes it clear that in spite of substitution aspect completed, nobody is appearing for the substituted L.Rs. of deceased- Opposite party no.1. Matter is taken up involving petitioner and State-opposite party and materials available on record.
3. Writ petition involves a challenge to the order at Annexure-6 being passed by the Tahasildar, Bheden appearing to be based on pendency of T.S.No.88 of 2005. Undisputedly in disposal of such proceeding, the Tahasildar allowed a part of the relief whereas declined other part on the premises of pendency of T.S.No.88 of 2005 whereas T.S. number in fact is 77 of 2005 and there is wrong recording of such case number by the Tahasildar. Producing the entire order-sheet of T.S.No.77 of 2005, taking this Court to the entire order-sheet, a claim has been made that the suit has been dismissed in the meantime for non-prosecution. As a consequence of dismissal of such suit, it appears petitioners have already made an application for passing appropriate order in Misc. (Consolidation) Case No.03 of 2002 dependant on finality of T.S.No.77 of 2005, claimed to be pending consideration of the Tahasildar.

4. Considering the above, this Court finds for the development through T.S.No.77 of 2005, in the event the suit involved in the proceeding hereinabove i.e. T.S.No.77 of 2005 is dismissed, the matter requires reconsideration. On production of certified copy of such order, application dated 17.11.2021 appended at page- 14 of the additional affidavit filed today in Court shall be taken into consideration and lawful order in the fresh adjudication of the matter so far it relates to rejection part involved here. shall be passed however keeping in view the developments through T.S.No.77 of 2005.

5. Let a copy of this order along with certified copy of suit proceeding be filed before the Tahasildar within a period of seven working days hence in such event the Tahasildar shall do well in passing the final order on the Miscellaneous application pending at least within a period of six weeks thereafter.

6. The writ petition stands disposed of with the observation and direction made hereinabove.

(Biswanath Rath)
Judge

sks