

IN THE HIGH COURT OF ORISSA AT CUTTACK

O.J.C. No.10697 of 2000

Pitambar Das & Ors.

....

Petitioner(s)

Mr. D.P. Dhal,
Sr. Advocate

-versus-

State of Orissa & Ors.

....

Opposite Parties

Mr. S. Ghose,
Addl. Govt. Adv. for O.Ps.1 to 3
Mr. A.S. Nandy,
Advocate for O.P.4

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
05.09.2022**

Order No.

05.

1. The impugned order under Annexure-7 passed by the Collector, Balasore in ESCHEAT Case No.1/91 is challenged on the sole ground of not providing of principle of natural justice.
2. Taking this Court to the several documents appended to the Writ Petition a claim is made by the Petitioners that there is ample material to establish their right over the disputed property and had the Petitioners been provided with opportunity, they would have been in a position to satisfy their case properly. Taking this Court to the impugned order at Annexure-7 learned counsel for the Petitioners makes a claim that this proceeding has been decided behind back of the occupiers of the land who have come to possess the land on entering into the compromise and a registered sale deed is also appended to the Writ Petition to establish their such claim.

3. Learned State Counsel taking this Court to the legal provision in this regard submitted that in the event of any dispute there is a mechanism for resolving such dispute through the civil proceeding. Further taking this Court to the observations of the authority in the impugned order at Annexure-7 learned State Counsel submitted that there appears, there is no infirmity in the impugned order, however there is also no dispute that the present Petitioners are not made party to the proceeding.

4. Learned counsel for the Opposite Party No.4 attempting to support the impugned order also submitted that whatever documents in proof of claim produced by the Opposite Parties therein are as a result of fraud attempt by such party and in illegal connivance with some of the parties having no right title interest over the property. A request is thus made for dismissal of the Writ Petition.

5. Considering the rival contentions of the parties this Court finds, there is no dispute at Bar that the ESCHEAT proceeding has been decided in absence of the Petitioners. For the opinion of this Court; since the Petitioners claim their right over the disputed property relying on some documents, in the interest of justice the Petitioners should have been made party to such proceeding and after providing opportunity of hearing final decision ought to have been taken. In the process this Court while not expressing any opinion on any of the documents filed by the Petitioners at this stage of the matter, leaves such aspect for consideration of the competent authority. Accordingly interfering with the order of the Collector at Annexure-7 as the same has been passed without following principle of natural justice, this Court sets aside the same and remits the matter to the Collector, Balasore for rehearing of the ESCHEAT

Case No.1/91 also involving the Petitioners. As a consequence of interference in the order at Annexure-7, this Court also sets aside the consequential order at Annexure-8. This Court here finds, since entertainment of the Writ Petition the Petitioners have been enjoying the interim order dated 6.11.2000 which is continuing as of now. This order will continue till fresh disposal of the case involved. Since the ESCHEAT Case No.1/91 is remitted back for consideration after providing opportunity of hearing to the Petitioners as well as the Opposite Parties therein i.e. the Opposite Party No.4 herein, this Court also directs, the proceeding vide ESCHEAT Case No.1/91 shall be concluded afresh within a period of five months from the date of communication of a certified copy of the order.

6. This Court directs the Petitioners as well as the Opposite Party No.4 to appear before the Collector, Balasore alongwith a copy of this order on 21st September, 2022. Further the Petitioners are directed to file their claim and/or objection, if any, involving the ESCHEAT Case No.1/91 on the date of appearance itself.

7. The Writ Petition stands disposed of with the above order.

(Biswanath Rath)
Judge