

IN THE HIGH COURT OF ORISSA AT CUTTACK

O.J.C. No.8770 of 2001

Madan Naik

....

Petitioner(s)

Smt. J. Sahoo,
Advocate

-versus-

State of Orissa & Ors.

....

Opposite Parties

Mr. S.P. Panda,
Addl. Govt. Adv.

CORAM:

JUSTICE BISWANATH RATH

ORDER

08.09.2022

Order No.

06.

1. This Writ Petition involves a challenge to the order under Annexure-2 passed under the provisions of the O.C.H. & P.F.L Act in disposal of the Revision Case No.99/92.
2. Taking this Court to the document at Annexure-1 (series) rent receipts, learned counsel for the Petitioner claims that the observation of the Joint Commissioner at running page 15 of the brief that the Petitioner did not file any document to establish his tenancy right, goes contrary to the materials available on record.
3. This Court here considering the contentions of the learned State Counsel finds, the document at Annexure-1 is filed in this Court itself. Had this document been made available to the authority, there would have been no occasion for the authority to ignore such document. This apart this Court also finds from the disclosure in the impugned order that there has been availability of documents such as Amin report and report of the Endowment Inspector supporting the claim of tenancy by the Petitioner. It is, in the circumstance, this

Court finds, this is a fit case to be remanded for fresh adjudication also involving the documents at Annexure-1 (series).

4. Considering that the Petitioner is in enjoyment of the status quo order since 13.09.2001 and as a fresh determination of the disputed land is required, this Court in the interest of justice interfering in the order at Annexure-2 sets aside the same and remits the matter to the competent authority *seisin* over such matter in Ganjam district to have a fresh look to the request of the Petitioner and take fresh decision also taking into account the rent receipt produced by the Petitioner herein vide Annexure-1, by completing the fresh adjudication within a period of four months from the date of communication of a certified copy of this order.

5. Since this matter is decided in presence of the Petitioner and in non-cooperation of the private opposite parties, this Court directs the Petitioner to appear before the competent authority on 26th September, 2022 along with a certified copy of this order and affidavit incorporating the additional document, if any. The competent authority shall also do well in issuing notice to the contesting Opposite Parties therein by way of Special Messenger at the cost of the Petitioner.

6. The writ petition stands disposed of with the above order.

(Biswanath Rath)
Judge