

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.11148 of 2003

Jaganath Patra and another* *Petitioners

M/s. P. K. Rath and associates, Advocates

-versus-

***Member, Board of Revenue, Cuttack* *Opposite Parties*
*and others***

Mr. Debakanta Mohanty, AGA

CORAM:

THE CHIEF JUSTICE

JUSTICE R. K. PATTANAİK

ORDER

27.07.2022

Order No.

11. 1. The present petition challenges an order dated 4th May, 2002 passed by the Member, Board of Revenue (BoR), Orissa in OEA Revision No.27 of 1998. By the impugned order, the BoR upheld the order dated 27th June, 1997 passed by the Additional District Magistrate, Ganjam, Chatrapur (ADM) in OEA Revision Case No.1 of 96.
2. The background facts are that the property in question is situated in Mouza Sihala, Tahasil-Kanisi, Sub-Divison-Berhampur, District-Ganjam and it is located in Khata No.241, Plot No.279 to an extent of Ac.1.052 and in Plot No.335 to an extent of Ac.0.204 totaling Ac.1.256 (hereafter 'the plot in question'). The plot in question was apparently purchased by the present Petitioners' mother under a Registered Sale Deed dated 27th May, 1978. The claim was that the father of the Petitioners had been cultivating that land and after his death, it had passed on

to the present Petitioners. They claimed to have also been paying government dues and water rent etc.

3. Claiming that the record of rights (RoR) in respect of the land in question was wrongly recorded in the name of one Khali Patra and that there had been wrongly instituted OEA Case No.184 of 1991 before the Tahasildar in which an order had been made, without notice to the Petitioners, on 18th December 1993, the present Petitioners filed an appeal being OEA Appeal No.2 of 1995. The said appeal was dismissed by the Sub-Collector, Berhampur on 22nd November, 1995 on the ground of limitation. Aggrieved by the said order, the Petitioners filed OEA Revision Case No.1/96 in the Court of the ADM, Ganjam, which came to be dismissed by the order dated 27th June, 1997.

4. On a perusal of the impugned order, it is seen that while the BoR has dealt with the question whether the Petitioners' plea could have been rejected on the ground of limitation alone, the BoR has nevertheless proceeded to examine the merits of the matter. It has been noticed in para 11 of the impugned order as under:

“11. The order sheet of the OEA Case No. 184/91 reveals that the estate was vested with State Government on 1.10.1965. The claim in this case is on purchasing the land through a Registered Sale Deed dated 27.5.1978. After vesting of the estate, the lands get vested with State Government. Unless and until the Inam Lands are settled with the intermediary or tenant, as the case may be any transactions subsequent to the date of vesting by means of sale, mortgage etc. cannot be deemed to valid.”

5. It has been correctly concluded by the BoR that “Section 38-B of the OEA envisages to start suo motu cases by this court or to start a revision case after receipt of a reference from the Collector of a district. The suo motu jurisdiction can only be exercised if gross irregularity or impropriety is noticed in the lower court orders. But in this case, neither the sale transaction is legally completed nor the argument proves that the lower courts passed orders without following the provisions of the O.E.A. Act. Accordingly, we are not inclined to interfere in this case.”

6. Learned counsel for the Petitioners urges that the Petitioners’ appeal was rejected by the Sub-Collector only on the ground of delay as was the revision petition before the ADM. In other words, he submitted that in initial stage, since no notice was issued to the Petitioners by the Tahasildar, the Petitioners’ case on merits could not be appreciated by any of the authorities. He accordingly pointed out that the matter should be sent back to the Sub-Collector or ADM for the Petitioners to be heard once again in the matter.

7. However, learned counsel for the Petitioners has no answer to the finding on merits of the BoR as has been reflected hereinbefore. If indeed the land in question stood vested with the Government on 1st October, 1965 itself, the question of the Petitioners getting title under a Registered Sale Deed nearly 13 years thereafter does not even arise. Learned counsel for the Petitioners has no answer to this legal difficulty and unless he is able to overcome it, the question of sending the Petitioners back

to any of the subordinate authorities would serve no purpose whatsoever.

8. Since on merits, there is no case made out by the Petitioners, the Court is not inclined to interfere with the impugned order of the BoR. The petition is accordingly dismissed.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

M. Panda

