

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C). No.9973 of 2003

Indra Naik & Anr.

..... Petitioner(s).

Mr.G.N.Sahu, Advocate

-versus-

The Collector, Rayagada & Ors.

..... Opposite Party(s)

Mr. S.P.Panda, AGA

Mr.G.K.Mohanty, Advocate

(O.P.Nos.3 & 4)

CORAM:

JUSTICE BISWANATH RATH

ORDER

15.09.2022

Order No.

5. 1. Heard learned counsel appearing for the parties.
2. This writ petition involves impugned order at Annexure-8, a decision involving a proceeding under Section (3-a) (i) of Section 3 of OSATIP Amendment Regulation 2 of 1996 involving Permission Case No.12 of 1998 under Section (3-a) (i) of Section 3 of Regulation 2 of 1996. Taking this Court to the sale deed and the permission being granted by the competent authority, Mr.Sahu, learned counsel for the petitioner contended that there has been lawful transfer of the property and that too after obtaining necessary permission from the competent authority. For the Permission Case No.12 of 1998, from the sale deed it has been also established that there has been execution of sale deed on payment of settled amount. Petitioners also appears to be in possession of the property and on entertaining the writ petition, petitioners are enjoying status quo order in respect of the disputed property by virtue of which petitioners are in possession of the property as of now. It is in the circumstance and for a valid transfer,

Mr.Sahu, learned counsel appearing for the petitioners claimed there has been mechanical disposal of 3-a proceeding.

3. Mr.Panda, learned Additional Government Advocate however taking this Court to the final observation of the competent authority submitted that for the undertaking of 3(a) exercise has to come to notice several defects in the grant of permission by competent authority and it is in view of such recording of the competent authority Mr.Panda, learned Additional Government Advocate attempted to justify the impugned order.

4. Considering the rival contentions of the parties, this Court finds all defects shown in the impugned order appears to be committed by the competent authority and petitioner cannot held responsible for the same. This Court in several disposal of this nurture has already come to observe for public authorities committing such defects taking place in 1998, after the permission order is passed and if it is not noticed in due time further keeping in view that there has been a lawful transfer of the property by the vendor on satisfaction with the receipt of settled amount and a transfer of property is already involved further petitioner has long possession over the disputed property, defects subsequently pointed out or noticed cannot take away the right of the vendor. This Court here finds the party likely to be affected in allowing the writ is also not coming forward to contest the case. In the circumstance, this Court finds the impugned order became illegal and interfered with and this Court accordingly sets aside the impugned order at Annexure-8.

5. In the result, the writ petition succeeds.

(Biswanath Rath)
Judge