

**IN THE HIGH COURT OF ORISSA AT CUTTACK**  
**W.P.(C) No.6416 of 2013**

***Sagara Sahu***

.... ***Petitioner***  
Mr. A.P. Bose, Advocate

-Versus-

***Collector, Sonapur and others***

.... ***Opposite Parties***  
Mr. D.K. Mohanty, AGA  
Mr. N.C. Pati, Advocate for O.P. Nos.2 to 5

**CORAM:**  
**THE CHIEF JUSTICE**  
**JUSTICE R.K. PATTANAİK**

**ORDER**  
**19.07.2022**

Order No.

**R.K. Pattanaik, J**

05.

1. Instant writ petition under Articles 226 and 227 of the Constitution of India, 1950 is filed by the Petitioner assailing the legality and judicial propriety of the impugned order dated 20<sup>th</sup> December, 2012 (Annexure-1) passed by the Collector, Sonapur (O.P.No.1) in OGLS Revision Case No.1 of 2010 on the grounds *inter alia* that the same is not tenable in law and further seeking a remand of the subject matter for a decision after calling for a fresh report in terms of the order dated 19<sup>th</sup> July, 2012 (Annexure-6).

2. As revealed from the record, the Tahasildar, Rampur leased out the land in question in favour of the Petitioner in Lease Case No.140 of 1998 vis-à-vis Plot No.315 measuring an area of Ac.0.025 dec. situated in the case mouza. Thereafter, O.P.Nos.2 to 5 filed a revision before O.P.No.1 under Section 7-A(3) of the

Orissa Government Land Settlement Act,1962 (hereinafter referred to as 'the OGLS Act') challenging the grant of lease in favour of the Petitioner on the grounds that the settlement is illegal; the father of the Petitioner is having cultivable lands; no proper enquiry or proclamation was made before granting lease; and that apart, Plot No.315 situates between a public road and their plot which is being used as a passage. Then, O.P.No.1 while accepting the objection of O.P. Nos.2 to 5 cancelled the lease granted in favour of the Petitioner vis-à-vis the case plot by the impugned order under Annexure-1.

3. Heard Mr. A.P. Bose, learned counsel for the Petitioner; Mr. D.K. Mohanty, learned AGA for O.P.No.1; and Mr. N.C. Pati, learned counsel for the O.P.Nos.2 to 5.

4. According to the Petitioner, O.P.Nos.2 to 5 have filed a suit in C.S. No.93 of 2010 before the court of Civil Judge (S.D.), Sonapur, wherein, the relief for interim injunction was refused, while considering the plea of easementary right over the case land. It is further contended that O.P.No.1, in the impugned proceeding, had called for a report from the Tahasildar, Rampur, who submitted the same vide Annexure-4, which was prepared in absence of the Petitioner in response to which a request was made under Annexure-5 to call for a fresh report concerning the boundary tenants of Plot No.316 and their relationship with O.P.Nos.2 to 5 but before any such report could be received, O.P.No.1 cancelled the lease. It is lastly contended that O.P.No.1 without proper enquiry and collection evidence passed the impugned order under Annexure-1 on the ground that the

Petitioner had concealed the fact about his family having cultivable and homestead land at the time of applying for lease and as such, he defrauded the concerned Tahasildar in that regard.

5. Mr. Bose contended that O.P.No.1 did not examine the delay in filing the revision under Section 7-A(1) of the OGLS Act which was condoned without any sufficient cause being shown by O.P.Nos.2 to 5 and therefore, impugned order under Annexure-1 cannot be sustained. Furthermore, a reference is made to Section 2 (b-2) of the OGLS Act by Mr. Bose while contending that O.P.No.1 did not cause any enquiry to ascertain the extent of land/share before taking a decision on the correctness of the lease granted in favour of the Petitioner. Mr. Mohanty, learned AGA on the other hand submits that the revisional jurisdiction under Section 7-A(3) of the OGLS Act has been exercised by O.P.No.1 which prescribes a limitation of 14 years and in so far as the proceeding is concerned, it is not time barred. It is also contended by Mr. Mohanty that due opportunity was provided to the Petitioner and after enquiry and receipt of evidence and on a satisfaction that the Petitioner is not a landless person, the lease was cancelled under the impugned order i.e. Annexure-1 which cannot therefore be called in question and interfered with by this Court.

6. Section 7-A (1) of the OGLS Act stipulates that a revision may be entertained by the Collector or the Revenue Divisional Commissioner, as the case may be, against orders passed under Section 7(1) or (3) thereof, however, within a period of 90 days

from the date of the orders and after expiration of the aforesaid period, subject to sufficient cause being shown by the aggrieved persons. In fact, the revision under Section 7-A(1) is against the orders passed under Section 7(1) of the OGLS Act which may be with regard to settlement of Government land and its resumption in terms of Sections 3 and 3B respectively. However, in the present case, the challenge is under Section 7-A(3) of the OGLS Act which specifies that the Collector may either on his own or otherwise examine records of any proceeding and orders passed under the said Act to satisfy himself as to whether any such orders passed under a mistake of facts, fraud or misrepresentation or on account of any material irregularity of procedure and thereafter, pass appropriate orders. The lease granted in favour of the Petitioner was challenged by O.P.Nos.2 to 5 on the ground of either misrepresentation or fraud since the fact of having cultivable and homestead land by the lessee family was allegedly concealed. So, having filed the revision on such ground and when it was within the period of limitation i.e. 14 years (as it was then prevailing), the contention of Mr. Bose is entirely misplaced and therefore, it has to be rejected.

7. As per Section 3(3) of the OGLS Act, the settlement of land shall have to be made in the following order of priority, namely, (a) co-operative farming societies formed by landless agricultural labourers; (b) any landless agricultural labourers of the village in which the land is situate or of any neighbouring village; (c) ex-servicemen or members of the Armed Forces of the Union, if they belong to the village in which the land is situated; (d) raiyats

who personally cultivate not more than one standard acre of land and (e) in absence of persons belonging to any of the foregoing categories any other person as the defined in Section 2(b-2) thereof. Admittedly, the Petitioner does not come within the purview of any of the above categories as he was neither landless agricultural labourer nor a raiyat, so to say. Mr. Bose contends that O.P.No.1 could have examined the case of the Petitioner vis-à-vis settlement of the land in question as an individual within the definition of Section 2(b-2) of the OGLS Act, an exercise which was not carried out. But, then the Court finds such a submission of Mr. Bose to be fallacious for the fact that the settlement in favour of the Petitioner, from the very inception, is on the premise of being a landless person. In any event, O.P.No.1 did call for a report from the Tahasildar, Rampur which was received under Annexure-4, wherein, it was disclosed that the Petitioner's father of having lands with a total area of Ac.1.206 dec. situated in the concerned mouza itself. Taking into account the aforesaid fact disclosed in the report suggesting that the family of the Petitioner not to be landless, O.P.No.1 cancelled the lease by the impugned order under Annexure-1. Not only that, O.P.No.1 arrived at a subjective satisfaction that proper enquiry was not conducted by the concerned R.I. who submitted the report on 17<sup>th</sup> September, 1998 to the Tahasildar, Rampur which was also found not in consonance with the lease principle. With the report on record and the fact being revealed that the Petitioner not to be a landless individual but his family having lands in the alleged mouza which was either not disclosed or concealed at the time of applying for lease, the Court is of the view that O.P.No.1

did not commit any error or illegality in cancelling the lease in exercise of revisional jurisdiction under Section 7-A(3) of the OGLS Act. In other words, the impugned order (Annexure-1) does not suffer from any legal infirmity.

8. Accordingly, it is ordered.

9. In the result, the writ petition stands dismissed.

***(R.K. Pattanaik)***  
***Judge***

***(Dr. S. Muralidhar)***  
***Chief Justice***



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