

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.33251 of 2011

Smt. Rebatilata Bal

....

Petitioner

Mr. Gyaneswar Satpathy, Advocate

-Versus-

State of Odisha and others

....

Opp. Parties

Mr. S.N. Das, ASC

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

ORDER

18.04.2022

Order No.

R.K. Pattanaik, J.

11. 1. Instant writ petition filed by the Petitioner under Article(s) 226 and 227 of the Constitution of India, 1950 challenging the impugned order dated 19th January, 2011 (Annexure-1) passed in Lease Revision Case No.702 of 1998 arising out of WL Case No.410 of 1974 by the Additional District Magistrate, Bhubaneswar, namely, O.P.No.2 on the ground that the same is not tenable in law and therefore, liable to be quashed.
2. Heard Mr. G. Satpathy, learned counsel for the Petitioner and Mr. S.N. Das, learned ASC appearing for the State.
3. It appears that the land in question measuring an area of Ac.0.500 dec. out of Sabik plot No.281, Khata No.805 of Mouza Andharua, P.S. Chandaka, Bhubaneswar was leased out in favour of the Petitioner's vendor (O.P.No.4) vide WL Case No.410 of

1974. It further appears that O.P.No.4 sold the above land in favour of the Petitioner in the year, 1981 and thereafter. the lease was cancelled vide Annexure-3 which was challenged in W.P.(C) No.4885 of 2003 and the same was disposed of by order dated 24th September, 2003 with a direction to O.P.No.2 to pass fresh orders after providing opportunity to the Petitioner setting aside the order of cancellation of lease. Whereafter, the Petitioner filed a show cause by claiming that the land was purchased and she has been in peaceful possession and thus, suo moto revisional power under Section 7-A (3) of the Orissa Government Land Settlement Act, 1962 (hereinafter referred to as 'the OGLS Act') cannot be invoked. On such other grounds, the Petitioner claimed before O.P.No.2 that the lease cannot be cancelled after about 23 years. O.P.No.2, thereafter, passed the impugned order under Annexure-1 by taking a stand that there was suppression of material fact and fraud having been perpetuated apart from serious irregularities being committed while leasing out the land and accordingly, directed the Tahasildar, Bhubaneswar, namely, O.P.No.3 to take steps to record it with the Government.

4. The main contention of Mr. Satpathy is that the lease was cancelled after 14 years in violation of 2nd proviso to Section 7-A (3) of OGLS Act and therefore, it cannot be sustained in law. On the other hand, Mr. Das, learned ASC contends that there is no illegality committed by the O.P.No.2 in passing the impugned order under Annexure-1, inasmuch as, certain facts were suppressed and fraud was played upon the authority concerned and while contending so, cited an order of this Court dated 6th

April, 2022 passed in W.P.(C) No.33349 of 2011 and batch of cases.

5. On a bare reading of the impugned order under Annexure-1, it would reveal that due process was not followed by the Tahasildar, Bhubaneswar, while settling the case land in favour of the lessee in order to ascertain if he was a landless agricultural labourer as defined in Section 2(b-1) of OGLS Act and that apart, there was suppression of material fact as there was no indication in the report of the concerned RI regarding joint ownership of landed property with the lessee and others in respect of Khata Nos.45, 62, 442, 650, 759 of Mouza-Dasapur besides violation of the provisions of Orissa Communal, Forest and Private Lands (Prohibition of Alienation) Act, 1948 and furthermore, at the time of transfer of the land by the lessee in favour of the Petitioner, no previous permission was obtained. With the above findings, O.P.No.2 cancelled the lease.

6. Referring to the decisions in ***Mr. Purna Ch. v. State of Orissa and others 2006 (I) OLR 184*** and also ***Laxmidhar Tarai v. Collector Puri and another 2018 (II) OLR 1012***, this Court, while disposing of W.P.(C) No.33349 of 2011 and batch of cases held that revisional jurisdiction under Section 7-A(3) of the OGLS Act may be exercised when the fraud is noticed since the starting point for computation of limitation period would commence from the date of its detection.

7. In the instant case, so many irregularities were noticed by O.P.No.2 which has been mentioned in detail in impugned order

under Annexure-1. The material fact regarding the landless status of the Petitioner was suppressed and that apart, no enquiry was made in that behalf. In fact, the land was settled with the lessee without any investigation as to his financial status to find out whether he fits into the definition of landless agricultural labourer as contained in Section 2(b-1) of the OGLS Act.

8. Regard being had to the submissions made and considering the fact that O.P.No.2 after having detected the fraud and noticed suppression of material fact in the year 1998, where after, prompt action was taken by exercising revisional jurisdiction, the Court is of the considered view that the impugned order under Annexure-1 does not require any interference.

9. Accordingly, it is ordered.

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

(R.K. Pattanaik)
Judge

(Dr. S. Muralidhar)
Chief Justice

TUDU