

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C). No.134 of 2009

Biswajit Mohanty

....

Petitioner(s)

Mr.R.K.Mohanty, Adv.

-versus-

Director, Consolidation, Orissa & Ors.

....

Opp.Party(s)

Mr.S.P.Panda, AGA

CORAM:

JUSTICE BISWANATH RATH

ORDER

02.12.2022

Order

No.

10.

1. The matter was not in today's list. On being mentioned, it is taken up through special notice.

2. Heard learned counsel for the Parties.

3. The Writ Petition involves a challenge to the order, vide Annexure-1 appearing to be a proceeding under Section 37(1) of the O.C.H. & P.F.L. Act against R.P.Nos.1254/2001 to 1256/2001. It appears, three Revisions were taken together and decided by the common impugned order.

4. Learned counsel for the Petitioner though did not dispute that there has been service of notice on the O.P. therein, the Petitioner herein, however, there was no appearance of the Petitioner and contended that there has been ex parte disposal of all these proceedings. In further development after the appeal period is over by the further impugned order, there has been direction for correction of R.O.R. harping on the nature of disposal in noncooperation of the Petitioner, learned counsel for the Petitioner claimed for scope for hearing involving the impugned action and the Petition involved therein.

5. Mr.S.P.Panda, learned A.G.A. taking this Court to the order-sheet commencing from Page-15 of the Brief contended that once notice is issued and Party to contest received such notice, such Party becomes duty bound to respond such call. In the event of failure to

respond, it can be presumed that such Party has no contest to the proceeding. Mr.Panda further contended that there is no wrong in disposal of the proceeding, as there is no objection on appearance of the Party even after providing such opportunity to him.

6. Considering the rival contentions of the Parties, this Court finds, there is no dispute that both the impugned orders are ex parte. However, this Court takes into account here the allegation of the State that in spite of notice, the O.Ps. did not attempt to object the claim therein. No doubt no fault can be found as against the Public Authority but however looking to the nature of claim, this Court finds, there should have been contested disposal and no technical disposal could have been entertained.

7. Keeping in view there is deliberate latches on the part of the O.Ps. therein in all the three proceedings, this Court interfering with the impugned orders, to provide opportunity of natural justice to the contestants, O.Ps, therein, sets aside the impugned order, vide Annexure-1 and remits the matter to the Consolidation Officer, Salipur, O.P.2 for re-exercising its power involving both the Parties.

8. For unnecessary suffering of the private O.Ps. for no fault of them and for the deliberate latches of the Petitioner herein forcing the private O.ps. to face the re-trial of the proceeding after twenty years, this Court imposes cost of Rs.5,000/- (rupees five thousand) in each of the Revisions required to be paid by the Petitioner to the private O.Ps., the Petitioners therein, on the date of appearance on 14.12.2022. For the matter decided in absence of learned counsel for O.P.4, the Consolidation Officer, Salipur is directed to issue notice to the Petitioner therein in all the three Revisions by Special Messenger but at the cost of the present Petitioner. The cost be asked to deposit within the stipulated time.

9. The Writ Petition stands disposed of accordingly.

(Biswanath Rath)
Judge

Sks

