

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.11576 of 2005

Geetadevi Agrawal

....

Petitioner(s)

Mr. S.K. Padhi,
Sr. Advocate
Mr. S. Sharma,
Advocate

-versus-

Debabhuti Debta & Anr.

....

Opposite Party(s)

Mr. U.K. Sahoo,
Addl. Standing Counsel

CORAM:
JUSTICE BISWANATH RATH

ORDER
29.09.2022

Order No.

03.

1. This Writ Petition involves a challenge to the order at Annexure-1 passed by the Joint Commissioner, Consolidation, Sambalpur in exercise of power U/s.37 (I) of the O.C.H. & P.F.L. Act.
2. Taking this Court to the rejection of the proceeding U/s.37(I) of the O.C.H. & P.F.L. Act, learned counsel for the Petitioner submitted that once the consolidation proceeding is over and Section 9, 12 as well 36 proceedings are done behind back of the Petitioner, for the Petitioner here having no opportunity of defending her case in all these proceedings, a proceeding U/s.37(I) is very much entertainable. Learned counsel thus claims that the authority exercising power U/s.37(I) of the O.C.H. & P.F.L. Act, has failed in appreciating the case and wrongly dismissed the same. There is no dispute that the proceedings U/s.9, 12 & 36 involves the vendor of the Petitioner.

3. In the circumstance this Court finds, if the vendor of the Petitioner has lost in all the forums, the purchaser-vendee has to step into the shoe of the vendor. Petition U/s.37(I) of the O.C.H. & P.F.L. Act nowhere brings allegation that his vendor did not fight the case properly. In any case if the vendee was dissatisfied with the outcome in the proceeding, nothing prevented the Petitioner to bring a Writ Petition against the order passed in exercise of power U/s.36 of the Act. Therefore, the stand taken by the Petitioner that the proceeding is undertaken behind her back is immaterial.

4. Be that as it may, during course of hearing this Court finds, the parties have already undertaken the exercise through the Civil Court vide T.S. No.26/96 involving very same property, which is allowed by the judgment and decree in favour of the plaintiffs the adversaries. The Petitioner herein is already undertaking an appeal exercise and the appeal is registered as R.F.A. No.9 of 2005. Undisputedly such appeal is pending as of now.

In the circumstance and as the parties have taken the very issue in the civil proceeding, this Court while declining to interfere in the impugned order, however, observes, the right title and interest over the disputed property involving the Petitioner and the private Opposite Parties, shall ultimately be bound by the Civil Court judgment and decree.

5. This Writ Petition stands disposed of with the above order.

(Biswanath Rath)
Judge