

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C) No.2692 of 2006**

***Kusha Jagdala***

....

***Petitioner***

M/s. N. C. Pati and associates, Advocates

*-versus-*

***State of Orissa and others***

....

***Opposite Parties***

Mr. Debakanta Mohanty, AGA

**CORAM:**

**THE CHIEF JUSTICE**

**JUSTICE R. K. PATTANAİK**

**ORDER**

**11.07.2022**

**Order No.**

08.

1. The challenge in the present petition is to a communication received by the Petitioner from the Tahasildar, Binka District Sonepur stating that by an order dated 15<sup>th</sup> February, 2006 of the Sub-Collector Sonepur, the lease given in favour of the Petitioner of Plot No.80, 81 and 82 of village Padhipali was cancelled in Lease Case No.28 of 1998 since the Petitioner was not found in possession of the plot allotted to him.

2. The short point on which the challenge is made that notice has not been issued to the present Petitioner prior to the cancellation by the Sub-Collector by the aforementioned order.

3. While issuing notice in the present petition on 2<sup>nd</sup> March 2006, this Court had directed status quo to be maintained. Pursuant to the notice issued, a counter affidavit has been filed by the Tahasildar, Binka where nothing is stated whether notice was in fact issued to the present Petitioner prior to the order passed by the Sub-Collector on 15<sup>th</sup> February, 2006 cancelling the lease.

4. It is pointed out that the Petitioner had been given the land at village Padhipali for house site purpose, but he had not stayed there and he was staying at village Sahajbahal by encroaching another Government land bearing Plot No.49. However, there is no averment that prior to passing the order dated 15<sup>th</sup> February 2006, any notice is issued to the Petitioner or he was heard.

5. On the above short ground, the impugned order dated 15<sup>th</sup> February, 2006 of the Sub-Collector passed in Lease Case No.28 of 1998 is hereby set aside and the aforementioned Lease Case No.28 of 1998 is directed to be resumed before the Sub-Collector, Sonepur and be listed for hearing there on 7<sup>th</sup> September, 2022. The Petitioner will appear before the Sub-Collector on that date along with a downloaded copy of this order. The Sub-Collector will thereafter proceed to hear the Petitioner and pass appropriate orders in accordance with law within a period of four months thereafter. Till such time, the interim order passed by this Court on 2<sup>nd</sup> March, 2006 will continue. The Court clarifies that it has not expressed any view on merits.

6. The writ petition is disposed of in the above terms.

7. Issue urgent certified copy of this order as per rules.

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

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