

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.8062 of 2003

Bela Bag and Ors.

....

Petitioner(s)

Mr. J.R. Dash,
Advocate

-versus-

State & Ors.

....

Opposite Party(s)

Mr. S. Mishra,
Addl. Standing Counsel for O.Ps.1 & 2
In spite of service of notice
none appears for the O.Ps.3 to 7

CORAM:
JUSTICE BISWANATH RATH
ORDER
23.08.2022

Order No.

6. 1. This writ petition involves a challenge to the order at Annexure-1 passed by the Joint Commissioner, Consolidation, Sambalpur in a proceeding U/s.37 (1) of O.C.H. & P.F.L. Act, 1972.
2. Taking this Court to the grounds taken in the writ petition and reading the observation of the Joint Commissioner in dismissing the revision at the instance of the Petitioners Mr. Dash, learned counsel for the Petitioners submitted that for the Petitioners having a claim on some foundation disclosed in the application itself; it becomes the duty of the Joint Commissioner to deal with the claim of the Petitioners and give his observation before finally concluding the proceeding. In the course of argument on the asking of the Court a copy of the revision petition is produced. This Court on perusal of the revision petition finds, the Petitioners have a clear background inter alia foundation behind their claim and not only that the Petitioners have also raised several grounds in the revision.

3. Learned State Counsel in his opposition to the contentions of the Petitioners, taking this Court to the reason of dismissal of the revision, submitted that the revisional order cannot be construed to be a wholly cryptic one.

4. Considering the rival contentions of the parties and looking to the pleadings made in the writ petition and the grounds taken in the revision petition, this Court is of the opinion that since the revision U/s.37(1) of the O.C.H. & P.F.L. Act involves a claim over the property involved, the Joint Commissioner should have been careful in dealing with the plea of the Petitioners and giving his own findings before finally terminating the proceeding. It is, in this view of the matter, this Court interfering with the impugned order at Annexure-1, sets aside the same, but however, since there is requirement of fresh adjudication of the proceeding, this Court remits the matter vide Consolidation Revision No.445/2001 back to the Joint Commissioner, Consolidation, Sambalpur or the Competent Authority, if any, to re-adjudicate the proceeding U/s.37(1) of the O.C.H. & P.F.L. Act involving the Petitioners.

5. Petitioners are directed to appear before the Joint Commissioner, Consolidation, Sambalpur or the Competent Authority, if any, along with a certified copy of this order on 12th September, 2022. The proceeding vide Consolidation Revision No.445/2001 shall be freshly adjudicated at least within a period of three months from the date of appearance of the parties.

6. The writ petition is, accordingly, disposed of.

(Biswanath Rath)
Judge