

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.872 OF 2022

Suresh Chandra Dash & Ors.

....

Petitioners

Mr.P.K.Nayak, Adv.

-versus-

***Commissioner, Consolidation &
Settlement, Board of Revenue & ors.***

....

Opposite Party

Mr.S.N.Mishra, AGA

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
20.1.2022**

**Order
No.**

01.

1. This matter is taken up through video conference mode.
2. Heard learned counsel for the Parties.
3. Looking to the peculiar nature of dismissal involving the impugned order remaining ex parte and considering the rival contentions of the Parties, this Court finds, the impugned order at Annexure-2 reads as follows :-

“The case is taken up today. Neither the counsel for the petitioner nor the petitioner is present on repeated calls. Advocate for O.P. No.2 is present. Though sufficient opportunity has been given to the petitioner, he has failed to attend the Court for further proceeding in the case. Hence, it is presumed that the petitioner is no more interested to proceed in this case.

Hence the case is dismissed on default.”

4. Considering the grievance of the Petitioners, this Court even though observes, once the Petitioners are parties to the litigation, they should have been vigilant in attending and conducting their own

case, but however the nature of decision being ex parte one, this Court is constrained to interfere in such matter, as litigation of this nature ought to be decided on contest rather than being ex parte. In this circumstance, this Court sets aside the impugned order at Annexure-2 and remits the matter to the Commissioner, Consolidation & Settlement, Orissa for re-disposal of Revision Case No.59 of 2015 within a period of two months from the date of communication of this order by the Petitioners but however involving the Parties likely to be affected and if necessary, intimation may be provided to other private parties involved for their participating in the disposal of the proceeding. It is the responsibility of the Petitioners to produce the copy of this order before the Commissioner at least within ten days from today.

5. With the above order, the Writ Petition stands disposed of.

6. As restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the Parties may utilize a printout of the order available in the High Court's Website, at par with certified copy, subject to attestation by the concerned Advocate, in the manner prescribed vide Court's Notice No.4587 dated 25th March, 2020, modified by Notice No.4798 dated 15th April, 2021 and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

(Biswanath Rath)
Judge

M.K.Rout