

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.27428 of 2013

(Through Hybrid mode)

Ramachandra Sethi ***Petitioner***

-Versus-

State of Odisha and others ***Opposite Parties***

For Petitioner : Mr. Trilochan Panigrahi, Advocate

For Opposite Parties: Mr. Gajendra Nath Rout, Advocate
(Additional Standing Counsel)

CORAM:

**JUSTICE ARINDAM SINHA
JUSTICE SANJAY KUMAR MISHRA**

JUDGMENT

16.11.2022

ARINDAM SINHA, J.

1. Mr. Panigrahi, learned advocate appears on behalf of petitioner. He submits, his client's mother, since deceased on 11th October, 2005, stood recorded in respect of a plot. She was very poor and illiterate. She was not aware that she had to appear in the settlement operation for final publication of RoR, wherein the land became recorded in Anabadi Khata. The Tahsildar thereafter settled the land on 23rd September, 1982. The authority filed revision case, which was decided ex-

parte by impugned order dated 20th September, 2002, setting aside the lease sanctioned by the Tahsildar.

2. He submits, counter has not been filed. He prays for interference for his client getting relief.

3. We notice order sheet bears, inter alia, order dated 5th April, 2018, made by coordinate Bench, reproduced below.

“List this matter in the week beginning 30th April, 2018 in the weekly list under “After Notice” category, for production of records in Lease Case No.717 of 1973.”

4. On query from Court Mr. Rout, learned advocate, Additional Standing Counsel appearing on behalf of State hands up the case record. We find from it, there is writing showing originally notice was issued to file show cause on 11th March, 2002, scored out to be 12th April, 2002 and thereafter 19th April, 2002. Furthermore, there appears to be endorsement made of service upon the son (petitioner) on 10th March, 2002.

5. State has not filed counter. We have no reason to disbelieve that petitioner’s mother was a poor and illiterate lady. In spite of she being available as on 10th March, 2002, date of endorsement made by the Process Server, petitioner’s son was said to have been served instead of her. We have also noticed aforesaid overwriting on change of date, by which the show cause was to be filed. This document was in custody of

State and not disclosed as no counter was filed, to enable petitioner to deal with the same. In the circumstances, at the stage of hearing on and after notice of the writ petition filed in year 2013, we are not inclined to accept the writing on issuance of notice to show cause, of its service on the son as good service.

6. Impugned order is set aside and quashed. Opposite party no.2 will issue fresh notice on petitioner, to enable him to file show cause in defence of order of the Tahsildar on sanction of lease. Thereupon, the revision case, upon restoration hereby, will be heard and disposed of.

7. The original record is returned to Mr. Rout.

8. The writ petition is disposed of.

(Arindam Sinha)
Judge

(S. K. Mishra)
Judge

R.K.Sethi