

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.965 of 2022

Benudhar pati

..... Petitioner

Mr. Samarendra Bahadur, Advocate
on behalf of Mr. Subash Chandra Sahoo, Advocate

-versus-

State of Odisha and another

.... Opp. Parties

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

17.02.2022

Order No.

1. This matter is taken up through Hybrid mode.
2. In this writ petition, the Petitioner has prayed for a direction to the Sub-Collector, Malkangiri-opposite party No.2 to accept the return in Form No.II in respect of the property purchased during the year 1989 appertaining to Plot No.538/1/1363 under Khata No.153/151 to an extent of Ac.1.00 area out of Ac.3.00 acre, kisama D-1 in Mouza-Kalimela under Motu Tahasil (for short the case land) as per Provisions of OSATIP Regulation-2 of 1956 (for short 'Regulation 2 of 1956').
3. Learned counsel for the Petitioner submits that the original recorded tenant, namely, Jamuna Naik, who belonged to S.T. Community, under a valid permission granted by the competent authority vide order passed in Case No.36/1989 sold the case land to non-ST person, namely, the Petitioner, vide registered sale deed No.1766/1989. Since the date of purchase, the Petitioner got the case land recorded in his name and mutated the case land in his favour vide M.C. No.101/1993 and

got ROR vide Khata No.650/157, plot No.1090/3962 and is now peacefully possesses the same. Due to want of wide publication of the amended provision of Section 3(B)(1) of OSATIP Regulation 2 of 1956, the Petitioner could not take step to file return as required under Section 3-B(1). It is his case that till date, no proceeding under Section 3-B (3) of Regulation No.2 of 1956 has been initiated. He further submits that an identical matter came up for consideration before this Court in W.P.(C) No. 10142 of 2015. A Single Bench of this Court relying on the order dated 09.05.2011 passed by a Division Bench of this Court in W.P.(C) No.11562 of 2009 directed the authorities to accept the return of the Petitioner.

4. In view of the above, I do not want to take a different view in the matter. Accordingly, this Court directs that in the event the petitioner files Form No.II return along with a limitation application within a period of four weeks from today before the Sub-Collector, Malkangiri, the same shall be accepted by condoning the delay, provided the land for which permission was given covers the land indicated in the sale deed executed in favour of the Petitioner. In the event, the Sub-Collector, Malkangiri-opposite party No.2 accepts Form-II and proposes to initiate any proceeding against the Petitioner under Section 3-B of the Orissa Regulation No.2 of 1956, the return filed by the Petitioner shall be taken into consideration.

5. The writ petition is disposed of accordingly.

(K.R. Mohapatra)
Judge