

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP (C) NO.2370 OF 2007

Santilata Routray

....

Petitioner

Mr.R.K.Mohanty, Sr.Adv.

-versus-

Director of Consolidation & ors.

....

Opposite Party(s)

Mr.U.K.Sahoo, ASC

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
27.10.2022**

Order No.

6.
 1. Heard learned counsel for the Parties.
 2. This Writ Petition is in second round of litigation. In the first round of litigation in disposal of O.J.C. No.4253/2002, this Court while allowing the Writ Petition and remitting the matter to the Director of Consolidation, Cuttack for re-adjudication of the proceeding under Section 37(2) of the O.C.H. & P.F.L. Act came to observe as follows :-

“...Learned Director has clearly found in the impugned order that the petitioner is entitled to 10 decimals under the sale deed in Annexure-4. It further appears that there was no dispute with regard to the title of the respective parties in respect of both the plots. The only dispute was relating to wrong preparation of the map which has been made without looking into the boundaries mentioned in the sale deed. In the impugned order, the learned Director is completely silent about the same.

I, therefore, quash the order and direct that the Director of Consolidation shall re-hear the petitioner with regard to the correction of the consolidation map and while disposing of the revision, he shall take into consideration the boundary description of both the plots in the respective sale deeds. From Annexure-4, it appears that in the southern side of the plot no.1098 there was a road, but in the consolidation map, plot no.1099 has intervened. Learned Director shall specifically look into this aspect of the map in order to do complete justice to the parties. The revision shall be disposed of by the learned Director within a period of six months from the date of receipt of this order.”

3. It is for the remand of the matter under Section 37(2) of the O.C.H. & P.F.L. Act, it appears, the Director pinpointed its consideration of the map position vis-à-vis claim of the Petitioner and has come to observe as follows :-

“Examined the sabik 1924, 1968 Settlement and 1986 Consolidation map. On super-imposition of hal map on 19.4 settlement map, it is seen that the configuration of hal map has been changed. There are several transfers in respect of the suit lands. As a result, both the plots had lost their sabik configuration. In different stages of settlement – settlement operation of 1968 settlement and consolidation-operation of 1986, the map has been prepared basing on the possession of both the parties in the field with reference to the documents of title. In the instant case, the petitioner claimed to add a portion of S.P. No.1243 with her H.P. No.1098, which has been mingled with O.P’s. H.P. No.1099. 1968 Settlement record reveals that Indramani Routray, the father of the vendor of the petitioner has been recorded over Ac0.07 1968 settlement plot no.1592 (corresponding to S.P. No.1243 Part) which does not adjoin the P.W.D. road. The vendee will simply get into the shoe of the vender. He cannot claim better title than that of the vender. Mere description of road plot in the southern side of the suit plot in the sale deed will not confer any title to the petitioner/vendee if the vendor of the sale deed had no

subsisting title over the disputed portion of sabik plot at the time of sale. Onus to prove title over the disputed portion, lies on the person who claims for correction of hal map on the basis of sabik map. From the sabik record, flow of title of the vender over the disputed portion should be proved clearly. The petitioner failed to produce any evidence as to the vendor's title over the said portion of sabik area to annul the 1968 consolidation map. Secondly, in the R.S.D. of the petitioner, the boundary description of the purchased area is as follows :West-Bhagabat Muduli, South-Road, North-Bhikari-Pagoda, East-Dildar Saha. But in the plaint, the petitioner has mentioned that Banamali Bhoi is in the western side of the suit plot. As per 1924 Settlement record, in the western side of the suit plot no.1243 there is Nilamani Mohanty, in northern side-Bijayram Mohanty, Eastern side-Rakhita and in southern side- there is road. As per 1968 settlement record, west-plot No.1564-Paramandana Bhola, East-1602-Rakhita Anabadi, North-Plot No.1594-Rajkishore Mohanty and others, South-1591-Bhramara Bhoi. Thus the boundary description of the Petitioner's sale deed is contradicting the boundary description mentioned in the R.P. and 1968 settlement and 1986 maps. Both the Consolidation map and 1968 settlement map have been prepared basing on the possession of the parties in the field. On the other hand, the boundary description of H.P. No.1099 in O.Ps' sale deed tallies with the present map and records, which is as follows : South-P.W.D. road, North-Plot Nos.1101, 1097, 1098, 1092 Anabadi, 1091, East:- P.W.D. & R.E.O. road square, West-Pot No.1100. the map attached to the O.Ps. sale deed is in conformity with 1968 and 1986 map and their possession, whereas there is no map attached to the petitioner's sale deed."

4. Considered the direction of the Director of Consolidation.

For there is threadbare discussion on the map position vis-à-vis the sale deed of the Petitioner, particularly keeping in view the land description therein, this Court finds, there is no fault in the

observation of the Director in dismissing the proceeding under Section 37(2) of the O.C.H. & P.F.L. Act.

5. In the circumstance, this Court finds no scope for interfering with the impugned order. The Writ Petition thus stands dismissed.

(Biswanath Rath)
Judge

M.K.Rout

