

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) NO.6068 OF 2006

***Sri Sri Mainsasuri Thakurani and
Jadi Thakurani Bijje Machhada & ors.***

....

Petitioners

Mr.A.P.Bose, Adv.

-versus-

***Joint Commissioner, Settlement and
Consolidation, Balasore & ors.***

....

Opposite Party(s)

Mr.S.Mishra, ASC
Mr.S.K.Mishra, Adv.

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
26.10.2022**

Order No.

- 20.
1. Heard learned counsel for the parties.
 2. The Writ Petition involves a challenge to the order passed by the Joint Commissioner, Settlement and Consolidation, Balasore in Revision Case Nos.127 of 2000 and 128 of 2000.
 3. Considering the rival contentions of the Parties and as this Court finds, on perusal of the original proceeding, the trial court has framed Issues Nos.2 & 3, the vital Issues, read as follows :-

“2. If the answer to issue 11 is in affirmative than what is the consideration money and whether Purna Chandra Panigrahi received the same.

3. Whether non-passing of consideration money in any way invalidate a sale and what is the effect of such a sale.”

4. It is taking into account the evidence available on such Issues and the discussions of the original authority as well as the appellate authority, this Court finds, even though there is much endeavourance by both the sides to establish the allegations and counter-allegations through oral evidence, this Court however nowhere finds any material clearly establishing transfer of money involving a sale transaction involving the property of the Deity, both the Parties are trustees of such Deity and this Court finds, there is definite possibility of accounts of the Deity. Special attention should have been given on the money transfer aspect. It is at this stage of the matter and keeping in view the argument of the learned counsel for the respective Parties, further taking into account the observation of the Revisional Authority, this Court finds, there is no analyzing of the above issue by the Revisional Authority except straightway jumping to the conclusion that there has been no proof of consideration money being paid to the Petitioners therein. Further discussions also are on all presumptions. In the circumstance, this Court finds, all the Authorities involved herein have dealt with the proceeding without much difficulty on the payment aspect, a vital aspect involved herein.

5. In the circumstance and for no concrete material establishing handing over the money aspect involving sale deed while also keeping in view Issue Nos.2 & 3 already there, this Court interfering with all the impugned orders involved herein remits the matter to the original authority for re-adjudication of Objection Case Nos.884/97 and 895/97 through the above issues, but however, providing further opportunity of evidence to both sides and to give its fresh finding. The Parties are directed to appear before the competent authority on 21st November, 2022 along with a copy of this order. Re-adjudication of the proceeding involved herein may also be concluded within a period of two months from the date of appearance of the Parties. It is also open to the respective Parties to lead further evidence, material and/or oral.
6. With the above direction, the Writ Petition stands disposed of.

(Biswanath Rath)
Judge

M.K.Rout