

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C) No.17090 of 2007

Laxmipriya Samal and others

....

Petitioners

Mr. K. K. Jena, Advocate

-versus-

State of Odisha and another

....

Opposite Parties

Mr. Debakanta Mohanty, AGA

CORAM:

THE CHIEF JUSTICE

JUSTICE R. K. PATTANAİK

Order No.

ORDER

17.02.2022

07. 1. The challenge in the present petition is to an order dated 6th July, 2007 passed by the Member, Board of Revenue (BoR), Orissa in OEA Revision Case No.26 of 1998.
2. By the said impugned order, invoking the suo motu powers under Section 38-B of the Orissa Estates Abolition Act, 1951 (OEA Act), the Member, BoR set aside the order dated 21st September, 1986 of the OEA Collector-cum-Additional Tahasildar, Darpan in OEA Fresh Lease Case No.576 of 1986 of Darpan Tahasil, settling raiyati status on land of Mouza-Charinangal in favour of Gokulananda Samal in Khata No.771, Plot Nos.748 and 25 measuring Ac.5.40.
3. The claim of the Petitioners to the suit land was on the basis of 'Hat Patta' claimed to have been obtained by late Gokulananda Samal from the ex-Intermediary. Despite opportunities given by the

Member, BoR, no written arguments were furnished by the Petitioners and importantly, no original documents filed in support of the claim. Paras 7 and 8 of the impugned order of the Member, BoR are tell-tale and explain the reasons why the impugned order decided the case in the way it did. The said paras reads as under:

“7. Perused the orders dated 21.09.86 of OEA Collector-cum-Tahasildar, Darpan in the OEA Case No.576/86. It is a carbon copy impression in which a few blanks have been filled up in ink with the details specific to Gokulananda Samal. It is obvious that this is a copy of mass order in which the blank spaces have been left for writing details specific to the beneficiaries concerned. It is not clear from the language of this order as to under which section of the Orissa Estates Abolition Act, 1951 or indeed of any other law or rules did he settle the land. He had issued a general notice inviting objections to the proposed settlement of the land. No objection was received. It is significant to note that he had settled the land basing only on the report of the Revenue Inspector that it was under the possession of Gokulananda Samal on the basis of patta issued by the ex-Intermediary. The OEA Collector has mentioned in his order that the suit land is “Anabadi”. The land classified as ‘hill’ cannot be settled by Tahasildar for agricultural purposes.

8. OEA Collector in his order dated 21.09.86 has not mentioned whether the ex-Intermediary had submitted “Ek-padia” of suit land in favour of Gokulananda Samal. Whether Tenants’ Ledger was opened in favour of Gokulananda Samal. Had the “Ek-padia” been submitted in his favour, the Tenants’ Ledger must have been opened in favour of Gokulananda Samal. It is obvious that neither the “Ek-padia” was submitted nor the Tenants’ Ledger was opened as above. OEA Collector has not examined as to why the “Ek-padia” was not submitted by the ex-Intermediary, if he had issued the patta on 04.05.1936 and was receiving the rent till the

vesting of ex-Estate as claimed by the opposite parties. OEA Collector has also not examined as to why the payment of rent was suddenly stopped after vesting of land for a long continuous period of almost 30 years. Why did he not continue to pay the rent at the same rate at which he was paying to the ex-Intermediary. Why did he not approach the Tahasildar 30 years back to seek the orders he was seeking then. Neither the patta nor rent receipts of ex-Intermediary have been produced for examination by this court. In view of this the claim of opposite parties is not credible. ”

4. Having heard learned counsel for the Petitioners, the Court is satisfied that there is no error vitiating the impugned order of the Member BoR. At this stage, Mr. Jena prayed that the Petitioners may be allowed to withdraw the present petition with liberty to file a fresh petition with better grounds.

5. The present petition is pending since 2007. The Petitioners in fact had a stay order in their favour since 21st January, 2008. Consequently, this Court is not inclined to accept the above prayer of Mr. Jena. There is no merit in the present petition and it is dismissed as such.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

M. Panda