

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.21458 of 2013

Sidheswar Sahoo

....

Petitioner

Mr. S. D. Das, Senior Advocate

-versus-

State of Orissa and another

....

Opposite Parties

Mr. P.K. Muduli, AGA

CORAM:

THE CHIEF JUSTICE

JUSTICE R. K. PATTANAİK

ORDER

05.07.2022

Order No.

04.

1. The challenge in the present writ petition is to an order passed by the Additional Tahasildar, Bhubaneswar under Section 3-B of the OGLS Act seeking to resume the leasehold plot in W.L. Case No.1984 of 1973.

2. The grounds on which the challenge is raised is two-fold. One is that the Petitioner is a bona fide purchaser from the original lessee under a registered sale deed (Annexure-1) dated 30th September, 1981 i.e. long before the impugned order was passed and no notice has been issued to the petitioner prior to exercising the power under Section 3-B of the OGLS Act. The second is that the attempted resumption could not have been initiated more than 14 years after the date of the lease.

3. While Mr. Mohanty, learned AGA, joins issue on the second ground, he is unable to dispute the fact that no notice was issued to the Petitioner prior to the impugned order despite the fact that the

sale deed under which the Petitioner is claiming title was executed long before the impugned order.

4. Consequently, the impugned order is hereby set aside and W.L. Case No.1984 of 1973 is restored to the file of the Additional Tahasildar, Bhubaneswar. The said W.L. Case No.1984 of 1973 is directed to resume leaving it open to the Petitioner to urge all the other points concerning the tenability proceedings as well as to the Opposite Parties to raise all points in opposition thereto. All such points will be considered in accordance with law by the Additional Tahasildar, Bhubaneswar.

5. W.L. Case No.1984 of 1973 will be listed now before the Additional Tahasildar on 29th August, 2022, on which date, the Petitioner will appear along with a downloaded copy of this order. The Additional Tahasildar, Bhubaneswar will then proceed in accordance with law as indicated hereinbefore and after hearing the parties dispose of the W.L. Case No.1984 of 1973 within a period of four months thereafter. Till such time, the status quo order passed by this Court on 12th February, 2014 shall continue.

6. The writ petition is disposed of in the above terms.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge