

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.5472 of 2011

**Jitendra Kumar Jena and
Others**

.... **Petitioners**

Mr. Ranjan Kumar Rout, Advocate

-versus-

Union of India and Others

.... **Opp. Parties**

Ms. Jyotsnamayee Sahoo, Proxy Counsel
on behalf of Mr. Manoj Kumar Pati, CGC
(for Opposite Party No.1)

Mr. M.K. Khuntia, AGA
(for Opposite Party Nos.2 and 5)

Mr. Narendra Kishore Mishra, Senior Advocate
(for Opposite Party No.4)

**CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN**

ORDER (Oral)

06.05.2022

Order No.

- 07.** 1. This matter is taken up through virtual/physical mode.
2. The twenty-two petitioners are residents of different villages falling within the Block-Mahanga, District-Cuttack. They are stated to have availed agriculture loans from State Bank of India, Chashakhand Branch, District-Cuttack (Opposite Party No.3) ranging from Rs.30,000/- to Rs.50,000/- in the year 2008. The agriculture loans were covered under an insurance coverage provided by Agriculture Insurance Company of India Ltd./Opposite Party No.4 for any loss caused to the crops for the agricultural year 2008-2009.
3. The instant writ petition has been filed assailing the notices issued by the State Bank of India (Opposite Party

No.3) in the year 2011 demanding the outstanding sums in the respective loan accounts. The primary ground of challenge is that the crops having suffered damage on account of heavy floods, thus were entitled to release of compensation by the Insurance Company/Opposite Party No.4, which were to be directly credited in the respective loan accounts maintained by the State Bank of India.

4. Upon notice, a counter affidavit has been filed by the Opposite Party No.4 along with documents from Annexures-A/4 to D/4. It is asserted that as per the formula for determination of compensation laid down under the National Agriculture Insurance Scheme, the petitioners were not entitled to any release of compensation. By referring to a Certificate issued by the Regional Manager of Opposite Party No.4 available at Annexure-D/4 with the counter, it is stated that the villagers in the entire Block of Mahanga were not eligible for release of any compensation in view of the alleged loss/alleged damage caused to the crops being below the laid down threshold. To counter the same, learned counsel for the petitioners has referred to a letter No.408 dated 24.11.2009 issued by the Junior Agriculture Officer, Mahanga to assert that the loss/damage caused to the crops in village Mahanga was more than 50%.

5. In view of the aforesaid disputed question of facts and the claim of the Insurance Company that the aforesaid determination by the Junior Agriculture Officer has no bearing on the formula for calculation of the amount of compensation under the Scheme, it is acknowledged that

the writ jurisdiction is not a proper forum for such determination.

6. No doubt more than ten years have lapsed. However, learned counsel for the petitioners in view of the facts of the case prays for permission to withdraw the writ petition and to pursue their remedy in accordance with law before an appropriate forum on the same cause of action between the same parties. The delay of course would liable to be condoned in view of the provisions of Section 14 of the Limitation Act. To the said proposition, learned counsel for the Insurance Company has no objection.

7. In view of the prayer made above, the writ petition is dismissed as withdrawn with the aforesaid liberty.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

May 6th, 2022
Cuttack

AKK