

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 2112 OF 2022

Laxmikanta Samal and others

.... Petitioners

Mr. Suvendu Kumar Ray,
Advocate

-versus-

Maimuna Tabasun and others

.... Opp. Parties

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

24.02.2022

Order No.

1. This matter is taken up through hybrid mode.
2. The Petitioners in this writ petition seek to assail the order dated 22nd February, 2020 (Annexure-2) passed by the Joint Director Consolidation Range-1, Cuttack in Appeal Case No.02 of 2019 filed by Opposite Party No. 1 under Section 12 of the Orissa Consolidation of Holdings and Prevention of Fragmentation of Land Act, 1972 (for short 'the Act').
3. Mr. Ray, learned counsel for the Petitioners submits that the dispute involved in Consolidation Appeal No. 2 of 2019 has already been set at rest in Revision Case No. 229 of 2004 filed by the husband of Opposite Party No.1 against the present Petitioner.
4. Considering the submissions of the parties, the Revision Case No. 229 of 2009 has been dismissed and remained unchallenged. Thus, an appeal under Section 12 of the Act is not maintainable. Further, the Petitioners were neither made parties to the said appeal nor served with any notice in Appeal Case No. 02 of 2019. Further, the Joint Director Consolidation only relying upon the submission of learned State Counsel, condoned the delay of seven years without assigning any

reason thereof. Entertaining an appeal itself is an outcome of suppression of material available. The Appellate Authority has also committed error apparent on the face of record. Hence, the order under Annexure-2 is not sustainable.

5. Mr. Mishra, learned Additional Standing Counsel submits that the order under Annexure-2 being passed under Section 12 of the Act, is revisable one. Since the Petitioners allege error apparent on face of the record, the same is a matter of review. He also submits that the Petitioners themselves have not explained the delay of almost two years in filing this writ petition. In that view of the matter, he prays for dismissal of writ petition.

6. Taking into consideration the submissions made by learned counsel for the parties, this Court is of the considered opinion that the order passed under Section 12 of the Act being reviseable one, the allegation made by learned counsel for the Petitioners can be effectively gone into by Revisional Authority. Thus, I am not inclined to entertain the writ petition.

7. Accordingly, this writ petition is disposed of without interfering with the impugned order under Annexure-2.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge

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