

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 2537 of 2021

Laxmidhar Sahu

.... ***Petitioner***
Mr. S.K.Ray, Advocate

-versus-

***Commissioner, Land Records and
Settlement, Odisha, Cuttack and
another***

.... ***Opp. Parties***

Mr. S.N. Mishra,
Additional Government Advocate

**CORAM:
JUSTICE K.R. MOHAPATRA**

**ORDER
06.04.2022**

Order No.

4. 1. This matter is taken up through hybrid mode.
2. Petitioner in this writ petition seeks to assail the order dated 6th May, 2015 (Annexure-4) passed by Commissioner, Land Records and Settlement, Odisha, Cuttack-Opposite Party No.1 in a revision filed under Section 15(b) of the Odisha Survey and Settlement Act, 1958 (for short, 'the Act').
3. Mr. Ray, learned counsel for the Petitioner submits that ROR in respect of the land in question was published in the year 1998 in the name of the Government. Revision petition was filed for correction of ROR in the name of the Petitioner on the basis of RSD Nos.1450 and 4904 dated 5th January, 1965 and 24th December, 1991 respectively. Admittedly, the land in question was an ex-intermediary property and the Jamabandi No.246 in respect of Khata No.68/10 was opened in the name of the Petitioner- Laxmidhar Sahu. Although yadast No.184 was prepared in the name of the Petitioner during settlement

operation, but the final ROR was published in the name of the Government. As such, finding no other alternative, the Petitioner filed revision under Section 15(b) of the Act for correction of recording of the land on the basis of Jamabandi opened in his name. Further, the Commissioner, Land Records and Settlement, while adjudicating the revision did not examine the record by directing the concerned Tahasildar to produce the same. He was also paying rent after the Jamabandi was opened in his name. The Commissioner, Land Records and Settlement, without appreciating the matter in its proper perspective, erroneously relying upon the ratio decided in the case of *State of Orissa and others Vs. Brundabana Sharma and another*, reported in *1995 (Supp.3) SCC 249* and *State of Odisha Vs. Harapriya Bisoi*, reported in *AIR 2009 SC 191*, rejected the claim of the Petitioner. In view of the above, he prays for setting aside the impugned order.

4. Mr. Mishra, learned AGA submits that after the Jamabandi was opened in the name of the Petitioner he took no step to record the land in question in his name. Accordingly, the ROR was published in the name of the Government in the year 1998. Belatedly, the Petitioner filed revision in the year 2000, which was rightly dismissed by the Commissioner, Land Records and Settlement. It is submitted that it was never a raiyati land and there is no material to show how the land came to the hands of the Petitioner. As such, no right can be derived in respect of the land in question only because Jamabandi opened in his name. He could have taken appropriate steps to record the same in his name at the appropriate time. That

having not been done the impugned order cannot be faulted with.

5. Taking into consideration the submissions made by learned counsel for the parties, this Court finds that Jamabandi No.246 was opened in the name of the Petitioner and thereafter he did not take any step to record the land in his name. Further, during settlement operation, although yadast was published in the name of the Petitioner, but the final ROR was published in the name of Government in the year 1998. It appears that the Petitioner did not produce any document in his favour to show that he had in fact taken appropriate steps to record the land in question in his name after vesting of the estate. Further, it appears that although the impugned order was passed on 6th May, 2015 the writ petition was filed on 21st January, 2021 without explaining delay in filing of the same.

6. In that view of the matter, I am not inclined to entertain the writ petition, which is accordingly dismissed. It is, however, observed that dismissal of the writ petition shall not preclude the Petitioner to seek appropriate remedy for recording of the land in question in his name in accordance with law.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge