

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 2307 of 2022

Abhishek Sahu and another* *Petitioners

Mr. Milan Kanungo, Senior Advocate
along with Mr. Dipankar Acharya, Advocate

-versus-

Tahasildar, Cuttack Sadar and others* *Opp. Parties

Mr. Dilip Kumar Mishra,
Additional Government Advocate
(For Opposite Party Nos.1 and 2)

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

04.04.2022

Order No.

4. 1. This matter is taken up through hybrid mode.
2. Petitioners in this writ petition pray for a direction to set aside the ROR in respect of Plot No.785 area Ac.0.084 decimal under Khata No.675, kisam 'Gharabari under mouza Cuttack Sahara Unit No.22 Mirkamal Patna under Cuttack Sadar tahasil (for short, 'the case land') prepared in the name of Sri Kailash Chandra Sahoo-Opposite Party No.3, pursuant to order dated 20th November, 2021 passed by Additional Tahasildar, Cuttack in Mutation Case No.8378 of 2021.
3. Mr. Kanungo, learned Senior Advocate submits that the case land was originally recorded in the name of one Kuntala Kumari Sahoo, mother of Petitioners, who breathed her last on 11th May, 2021 leaving behind the Petitioners as her legal heirs. After death of Kunatala Kumari Sahoo, Petitioners applied for and were issued with legal heir certificate as at Annexure-3. Subsequently, they filed Mutation Case No.7344 of 2021 to

record the case land in their name. Additional Tahasildar, Cuttack following due process of law vide his order dated 20th November, 2021 directed to correct the ROR in the name of the Petitioner. Accordingly, they were issued with ROR under Annexure-1. Subsequently, Opposite Party No.3 claiming himself to be the legal heir of said Kuntala Kumar Sahoo filed Mutation Case No.8378 of 2021 to record the case land in his name. Although the Petitioners' name were already recorded in respect of the case land, the Additional Tahasildar, Cuttack, without issuing any notice to the Petitioners directed to record the case land in the name of Opposite Party No.3. Petitioners had no knowledge of such recording. When the Opposite Party No.3 created disturbance in the peaceful possession of the Petitioners on the basis of ROR under Annexure-4 they came to know about issuance of such ROR in favour of Opposite Party No.3. Thus, finding no alternative, they filed the present writ petition.

4. In order to ascertain the circumstances under which ROR under Annexure-4 was issued, this Court had directed learned counsel for the Petitioners to produce the orders passed in Mutation Case No.7344 of 2021 and Mutation Case No.8378 of 2021. Today, both learned counsel for the Petitioners as well as learned Additional Standing Counsel produced the copies of order sheets of both the Mutation Cases along with additional affidavit of the Petitioners, which are taken on record.

4.1 On perusal of order sheet of Mutation Case No.8378 of 2021 by which the case land was directed to be recorded in the name of Opposite Party No.3, it is seen that no reference with

regard to earlier Mutation Case, i.e., 7344 of 2021 was made. It also appears that the Petitioners were not issued with any notice in the Mutation Case No.8378 of 2021, although by the date of disposal of said Mutation Case, the land in question had already been recorded in the name of the Petitioners under Annexure-1. In that view of the matter, this Court feels that Petitioners should have been given an opportunity of hearing in Mutation Case No.8378 of 2021.

5. Taking into consideration the submissions of learned counsel for the parties and on perusal of record, this Court is of the considered view that the Petitioners should make an application before Additional Tahasildar, Cuttack for setting aside of order dated 20th November, 2021, by which the Mutation Case No.8378 of 2021 was disposed of by him.

6. Accordingly, the writ petition is disposed of with a direction that in the event the Petitioners file an application before the Additional Tahasildar, Cuttack for recall of order dated 20th November, 2021 passed in Mutation Case No.8378 of 2021 within a period of two weeks hence along with certified copy of this order, the Additional Tahasildar, Cuttack shall do well to consider the same in accordance with law giving opportunity of hearing to the parties concerned including the Petitioners as well as Opposite Party No.3 and pass a reasoned order therein as expeditiously as possible, preferably within a period of four months there from.

6.1 Till disposal of the application, as aforesaid, if filed within the time as stipulated above, the ROR issued in the name of Opposite Party No.3 shall be kept in abeyance.

7. A copy of this order shall be supplied to Mr. Mishra, learned AGA for communication and compliance.

Issue urgent certified copy of this order on proper application.



s.s.satapathy