

IN THE HIGH COURT OF ORISSA AT CUTTACK**WP(C) No.24975 of 2012*****Smt. Revati Pany***

....

Petitioner

Mr. S.K. Samantaray, Advocate

-versus-***State of Odisha and others***

....

Opposite Parties

Mr. D.K. Mohanty, AGA

CORAM:**THE CHIEF JUSTICE****JUSTICE R. K. PATTANAİK****ORDER****11.07.2022****Order No.****Dr. S. Muralidhar, CJ.**

06.

1. The challenge the present writ petition is to an order dated 11th August, 1998 passed by the Additional District Magistrate, (ADM) Bhubaneswar in Revision Case No.897 of 1998.

2. The above revision case was initiated under Section 7-A (3) of the O.G.L.S. Act, 1962 and was in respect of the lease of Ac.1.300 decimals of land in Plot No.1400/1756 under Khata No.420(325)/124 of Mouza-Pathargadia (hereafter 'the land in question'). The Petitioner claims to have purchase the land in question by a registered sale deed (RSD) dated 25th November, 2008 from one Smt. Pratima Dash, who in turn appears to have purchased it under a RSD dated 16th November, 2005 from one Shri Prasanna Kumar Dalei.

3. The original lessee was one Shri Daitary Naik in whose favour the lease in respect of the land in question was granted by the order

dated 26th December, 1974 of the Tahasildar, Bhubaneswar. At the time that the aforementioned W.L. Case No.897 of 1998 was taken up the first sale of the land in question had taken place in favour of Shri Prasanna Kumar Dalei by a RSD dated 27th April, 1984. In other words, after the cancellation of the lease by the impugned order dated 11th August, 1998 of the ADM, Bhubaneswar, there have been two subsequent sales of the land in question, once on 16th November, 2005 and another in favour of the present Petitioner on 25th November, 2008.

4. Relying on the decision in ***Chandan Kumar Sethi v. State of Odisha (2010) 2 OLR 41*** and the recent decision of this Court dated 20th April, 2021 in W.P.(C) No.25099 of 2012 (***Pravat Kumari Rajguru v. State of Odisha***, Mr. S.K. Samantaray, learned counsel for the Petitioner, contends that impugned order is violative of the first proviso to Section 7-A (3) of the OGLS Act, inasmuch as, notice was not issued to the present Petitioner at the time the impugned order was passed by the ADM.

5. The facts which are not in dispute are that by the time the Petitioner purchased the land in question under a RSD dated 25th November 2008, it had already changed hands twice. The sale in favour of the Petitioner's vendor Smt. Pratima Dash took place on 16th November, 2005 after the cancellation of the lease by the impugned order dated 11th August, 1998.

6. At the time that the impugned order was passed on 11th August, 1998 the only person who could have been affected was the said Shri Prasanna Kumar Dalei who had purchased the land in question under a RSD dated 27th April, 1984. However, the said Prasanna Dalei was not made a party to Revision Case No.897 of 1998 and has not come forward to challenge the impugned order dated 11th August, 1998 of the ADM.

7. In *Chandan Kumar Sethi v. State of Odisha* (*supra*), this Court noticed that the first purchaser of the land from the original lease has not been issued notice by the ADM before the cancellation of the lease deed and in those circumstances invalidated the order of cancellation of the lease. In the present case, however, the ADM noted the contention of the original lease that ‘the land got on lease has been transferred by him’. The lessee, however, chose not to provide the details of the person to whom he had sold the land. Therefore, there was no occasion for the ADM, to have issued notice to such person. In any event, for the purposes of proviso of Section 7-A (3) of the OGLS Act since Shri Dalei was the only ‘affected person’ at the time of the ADM passing the impugned order, he alone, if at all, could have been prejudiced by the impugned order of the ADM and could have challenged it. He did not do so. The ADM could not have possibly issued notice to anyone else, much less the subsequent purchasers who were not in the picture then.

8. As far as the present Petitioner is concerned, her vendor i.e. Smt. Pratima Dash herself did not have any valid title to convey since Pratima Dash's vendor Shri Prasanna Dalei himself had no valid title to convey on the date of the RSD by which he sold the land in question to her i.e. 16th November, 2005. Both the sales, i.e. the one in favour of Smt. Pratima Dash and thereafter the sale by her to the present Petitioner are, therefore, *non est* in the eye of law. Consequently, the Court does not find the decision in ***Chandan Kumar Sethi v. State of Odisha*** to be helpful to the Petitioner.

9. As per as decision in ***Pratvati Kumari Rajguru vs. State of Odisha (supra)*** is concerned, the facts there were that the purchase of the land had taken place prior to the cancellation of the lease and therefore, the Court held that notice ought to have been issued to the purchaser. Here the purchase has taken place long after the cancellation of the lease and in the circumstances pointed out, no valid title could have been conveyed to the Petitioner by her vendor. The Petitioner, therefore, has no locus standi to challenge the impugned order of the ADM.

10. For the aforementioned reasons, the writ petition is dismissed. The interim order dated 10th January, 2014 is hereby vacated.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge