

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 4490 of 2015

***Jeypore Sugar Company Ltd.,
Rayagada***

..... Petitioners

Mr. S.K.Padhi, Senior Advocate
along with Mr. V. Venkata Shivakumar,
Official Liquidator of the Petitioner and Mr. B.K.Raj,
Advocate

-versus-

Collector, Rayagada and others

.... Opp. Parties

Mr.Swayambhu Mishra,
Additional Standing Counsel

Mr. S.Pradhan, Advocate
(For Intervener)

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

**ORDER
16.03.2022**

Order No.

IA Nos.1440 and 1441 of 2022

- 6.
1. This matter is taken up through Hybrid mode.
 2. These Interlocutory Applications are filed for substitution of Official Liquidator appointed by the learned National Company Law Tribunal to prosecute the writ petition in view of winding up of the Petitioner-Company and condonation of delay in filing such application for substitution.
 3. Considering the grounds taken and submissions of learned counsel for the parties, the delay in filing the application for substitution is condoned and the Official Liquidator is permitted to represent the Petitioner-Company being under liquidation.

4. Both the IAs are allowed and disposed of accordingly.

(K.R. Mohapatra)

Judge

W.P.(C) No. 4490 of 2015

7. 1. Petitioner in this writ petition seeks to assail the order dated 9th February, 2015 (Annexure-9) passed by the Additional District Magistrate, Rayagada in OLR Revision Case No.1 of 2015, whereby he confirmed the order dated 12th December, 2014 (Annexure-8) passed by the Sub-Collector, Rayagada in OLR Appeal No.4 of 2014 dismissing the appeal and thereby confirming the order dated 30th September, 2014 (Annexure-7) passed by the Revenue Officer-cum-Tahasildar, Rayagada in OLR Case No.60 of 1974.
2. The dispute in this writ petition is with regard to exemption of an area of only Ac.15.000 decimal for dumping of slag under Section 38 of the Odisha Land Reforms Act, 1960 (for short, 'the Act').
3. Mr. Padhi, learned Senior Advocate argued that an area of Ac.15.000 decimal is not sufficient for dumping of slag of the Petitioner Company. However, in course of argument, he fairly submits that the Petitioner-Company has been closed and it is in the process of winding up. In that view of the matter, question of dumping of slag of the Petitioner Company does not arise any further.

4. Thus, this Court is not inclined to interfere with determination of area required for dumping of slag, i.e., Ac.15.000 decimal.

5. Mr. Padhi, learned Senior Advocate, however, submits that the Petitioner-Company is entitled to the amount payable by Government in respect of the surplus land to be determined under Section 47 of the Act. It is his submission that since the Court is not inclined to interfere with the impugned orders under Annexures-7, 8 and 9, the authorities may be directed to determine the amount under Section 47 of the Act following due procedure of law and make the payment under Section 50 of the Act as expeditiously as possible so that liquidation proceeding can be expedited. The Petitioner-Company is entitled to the amount in respect of ceiling surplus land to an extent of Ac.506.690 decimal.

6. Mr. Mishra, learned ASC, on the other hand, submits that such prayer is beyond the scope of the writ petition as the legality and propriety of orders under Annexures-7, 8 and 9 are only under challenge herein. However, he has no instruction, whether the amount under Section 47 of the Act is determined and has already been paid to the Petitioner-Company under Section 50 of the Act or not.

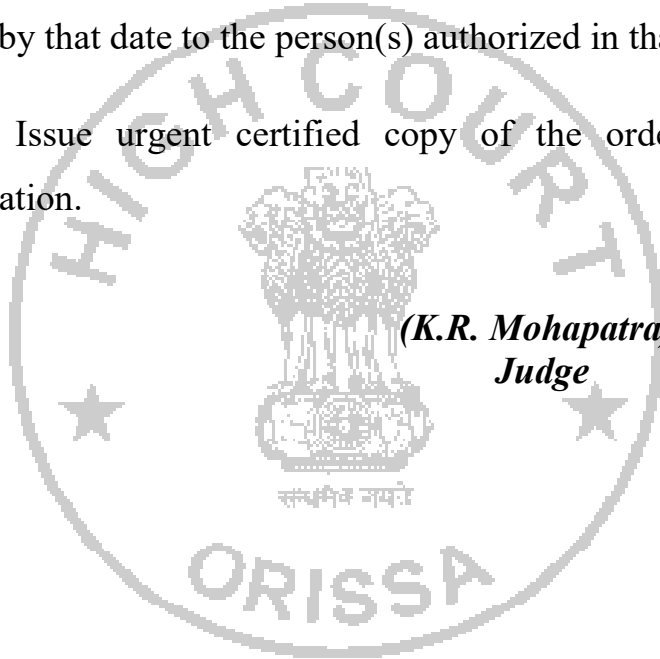
7. Taking into consideration the rival contentions of the parties, this Court is of the considered opinion that since ceiling surplus land has already been determined, immediate steps should be taken by the authorities under the Act to compute the amount in respect of ceiling surplus land to an extent of

Ac.506.690 decimal in terms of Section 47 of the Act and Rules framed thereunder and make the payment at an early date, if not paid in the meantime.

8. The writ petition is therefore disposed of without interfering with the impugned orders under Annexures-7, 8 and 9 directing the authorities under the Act to compute the amount under Section 47 of the Act and Rules framed thereunder, as expeditiously as possible, preferably within a period of six months from today, if not already done and payment shall be made by that date to the person(s) authorized in that behalf.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge



s.s.satapathy