

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.240 of 2015

In W.A. No.240 of 2015

Himansu Bhusan Pradhan and another Appellants

Mr. S.P. Mishra, Senior Advocate and associates
-versus-

***Commissioner, Consolidation, Respondents
Bhubaneswar and others***

Mr. Debakanta Mohanty, A.G.A. for the State
Mr. J. Biswal, Advocate for caveator

In W.A. No.253 of 2015

Himansu Bhusan Pradhan and another Appellants

Mr. S.P. Mishra, Senior Advocate and associates
-versus-

***Commissioner, Consolidation, Respondents
Bhubaneswar and others***

Mr. Debakanta Mohanty, A.G.A. for the State
Mr. J. Biswal, Advocate for caveator

In W.A. No.254 of 2015

Himansu Bhusan Pradhan and another Appellants

Mr. S.P. Mishra, Senior Advocate and associates
-versus-

***Commissioner, Consolidation, Respondents
Bhubaneswar and others***

Mr. Debakanta Mohanty, A.G.A. for the State
Mr. J. Biswal, Advocate for caveator

In W.A. No.255 of 2015

Himansu Bhusan Pradhan and others* *Appellants

Mr. S.P. Mishra, Senior Advocate and associates

-versus-

***Commissioner, Consolidation,
Bhubaneswar and others* *Respondents***

Mr. Debakanta Mohanty, A.G.A. for the State

Mr. J. Biswal, Advocate for Caveator

CORAM:

**THE CHIEF JUSTICE
JUSTICE CHITTARANJAN DASH**

**ORDER
27.09.2022**

Order No.

04.

1. The short ground on which the present writ appeals have been filed challenging the common order dated 10th April, 2015 passed by the learned Single Judge is that the present Appellants have been nonsuited at the outset by the learned Single Judge on the ground that the later writ petitions filed for the same relief by the vendors of the present Appellants were dismissed as withdrawn by the learned Single Judge.

2. The grievance is that these Appellants had filed writ petitions which were earlier to the ones filed by their vendors. The second development was that during the pendency of the writ petitions, the vendors executed registered sale deeds (RSDs) in their favour. The learned Single Judge has, despite noticing the above development, observed that since there was no averment to that effect by way of an affidavit nor any document filed, the present Appellants have to

sail in the same boat as their vendors and, therefore, their writ petitions cannot be entertained.

3. It must be mentioned here that in the present writ appeals, the main contesting parties are Respondent Nos.2 to 4 represented by Mr. J. Biswal, learned counsel, who questions the validity of the RSDs in favour of the present Appellants on the ground that Respondent No.5, their vendor, himself did not have any valid title to convey. The second contention is that the validity of the RSDs can be tested only in a separate civil suit and not in proceedings under the Orissa Consolidation of Holding and Prevention of Fragmentation of Land Act ('Act').

4. The fact of the matter is that the writ petitions filed by the present Appellants did not receive consideration in the hands of the learned Single Judge only on the ground that the later writ petitions of their vendors were dismissed as withdrawn. Considering that the Petitioners are claiming right, title, interest over the property in question through RSDs, it was incumbent on the learned Single Judge to have examined their writ petitions on merits. It is clarified that this Court has not expressed any view thereon as it is important for the learned Single Judge to first examine the writ petitions on merits.

5. Therefore, leaving all the contentions of the both the present Appellants i.e. the writ petitioners and the contesting Respondent Nos.2 to 4 (who are the contesting Opposite Parties in the writ petitions) open for consideration by the learned Single Judge, this

Court sets aside the impugned order dated 10th April 2015 of the learned Single Judge in the W.P.(C) Nos.12817, 13108, 13109 and 13110 of 2004 and restores above writ petitions to the file of learned Single Judge in the roster Bench where it will be listed for hearing on 7th December 2022.

6. Since pleadings are stated to be complete in the writ petitions, the learned Single Judge is requested to proceed with the hearing of the writ petitions and dispose them of as expeditiously as possible. Till the disposal of the writ petitions, status quo shall be maintained by the parties.

M. Panda/S.K. Guin

