

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 3238 of 2020

Kabitarani Swain

....

Petitioner

Mr. Surya Kanta Dash, Advocate

-versus-

State of Odisha and others

....

Opp. Party

Mr. Swayambhu Mishra,
Additional Standing Counsel
(For Opposite Party Nos.1 to 3)

Mr. Bhabani Sankar Panigrahi, Advocate
(For Opposite Party No.4)

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

**ORDER
19.04.2022**

Order No.

- 5.
1. This matter is taken up through hybrid mode.
 2. Petitioner in this writ petition assails the legality and propriety of the notice dated 10th January, 2020 (Annexure-4 series) issued by Tahasildar, Kujanga-Opposite Party No.3 in Demarcation Case No.145 of 2019 fixing the date of demarcation to 4th February, 2020.
 3. Mr. Dash, learned counsel for the Petitioner submits that initially Demarcation Misc. Case No.105 of 2018 was filed by the purchasers of different parcels of Plot No.212/1156 under Khata No.392/229 to an extent of Ac.0.070 decimal situated in mouza Pipala under Kujanga tahasil in the district of Jagatsinghpur. The Petitioner appeared and filed her objection stating that the demarcation of the land in question cannot be made in view of pendency of RSA No.270 of 2018 filed by her.

Entertaining such objection, demarcation of the land in question was kept on hold and the said demarcation cases were kept pending. Subsequently, another Demarcation Case in Misc. Case No.145 of 2019 was filed for demarcation of the self-same land. Tahasildar, Kujanga entertaining such application issued notice vide order dated 10th January, 2020 fixing the date of hearing of the case to 18th January, 2020. Surprisingly, on the very same day, another notice was also issued fixing the demarcation of the land in question to 20th January, 2020. Thus, objection filed by the Petitioner opposing demarcation of land in the said Demarcation Case could not be considered. It is further submitted by Mr. Dash, learned counsel for the Petitioner that assailing the notice issued for demarcation of the land, the Petitioner preferred an appeal before the Sub-Collector, Jagatsinghpur on 20th January, 2020, which was endorsed to the Tahasildar, Kujanga. But, the Tahasildar, without considering the same proceeded with the matter and fixed the date of demarcation to 4th February, 2020. Assailing the same, the Petitioner has filed this writ petition.

3.1 It is his submission that the proceeding in Demarcation Misc. Case No.145 of 2019 is perfunctory, as the Tahasildar did not at all follow the procedure and provide opportunity of hearing to the Petitioner to put forth her case in the Demarcation Case. In view of pendency of RSA No.270 of 2018 at the relevant time, demarcation proceeding itself was not maintainable. Besides, Petitioner had also raised an objection in the demarcation case with regard to *locus standi* of Opposite Party No.4 seeking demarcation. Hence, he submitted that the

notice for demarcation of the land in question under Annexure-4 series is not sustainable and is liable to be set aside.

4. Mr. Panigrahi, learned counsel for the Opposite Party No.4 submits that the prayer made in the writ petition has already become infructuous, as the notice under challenge cannot be given effect to at present. Further, the Petitioner objected to the demarcation of the land on the ground that RSA No.270 of 2018 in respect of the land in question is pending before this Court. The said appeal has already been dismissed vide order dated 22nd November, 2021. As such, entertaining the writ petition has become academic

5. Mr. Mishra, learned ASC also supported the submission of Mr. Panigrahi, learned counsel for Opposite Party No.4 and contended that the Petitioner has no semblance of right, title and interest over the land in question. She was opposing the demarcation of the land in question on the basis of the alleged agreement for sale and pendency of RSA No.270 of 2018. The Second Appeal has already been dismissed vide order dated 22nd November, 2021. Hence, the writ petition merits no consideration and is liable to be dismissed.

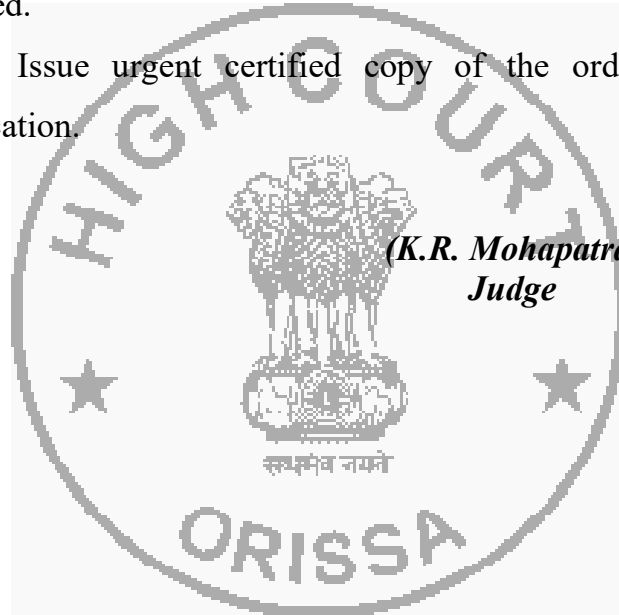
6. Taking into consideration the rival contentions of the parties and on perusal of the record, it reveals that the Petitioner objected to the demarcation of the land in question on the ground that RSA No.270 of 2018 was pending. The Petitioner has also raised objection with regard to the manner in which the Tahasildar, Kujanga proceeded with the Demarcation Case No.145 of 2019. All these issues have become academic in view of dismissal of RSA No.270 of 2018. Further, the Petitioner has assailed the legality and validity of the notice

issued in Demarcation Case No.145 of 2019 fixing the date of demarcation to 4th February, 2020, which has become infructuous at present. Accordingly, nothing remains to be adjudicated in this writ petition.

7. Since the prayer made in the writ petition cannot be granted at this stage, the writ petition merits no consideration and is accordingly dismissed.

8. In view of dismissal of the writ Petition, interim order dated 3rd February, 2020 passed in IA No.1386 of 2020 stands vacated.

Issue urgent certified copy of the order on proper application.



(K.R. Mohapatra)
Judge