

IN THE HIGH COURT OF ORISSA AT CUTTACK

**W.P.(C) No.3398 of 2022
(Through hybrid mode)**

Pravat Bhanu Muduli

....

Petitioner

Mr. S.K. Mahanty, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. Y.S.P. Babu, AGA

CORAM: JUSTICE ARINDAM SINHA

**ORDER
08.12.2022**

**Order
No.**

3.

1. Mr. Mohanty, learned advocate appears on behalf of petitioner and submits, impugned is order dated 17th December, 2021 made by the Sub-collector confirming order of the lower Court allowing claim of opposite party no.5. He submits, the deceased was brother of his client. His widow is Soumya Sucharita Muduli and Aditya is the son. Opposite party nos. 5 and 6 falsely claimed to be respectively widow and son of the deceased. Where the Court below had erred by relying upon the field inquiry made by local R.I., the Sub-Collector committed same mistake by relying on same report. He seeks interference.

2. Mr. Babu, learned advocate, Additional Government Advocate appears on behalf of State and on query from Court submits, the field

enquiry report of the R.I. has been obtained by way of instruction received. On further query from Court Mr. Babu is unable to demonstrate from the report that there was finding on opposite party nos.5 and 6 being respectively widow and son of the deceased.

3. In spite of service duly made, opposite party nos. 5 and 6 go unrepresented.

4. It appears from impugned order that opposite party no.5 did not turn up to contest before the Sub-Collector as well. Impugned order thereupon proceeds to say petitioner is not coming under legal heir of the deceased since, he is the brother and he himself has disclosed that widow of the deceased is alive but has not applied for legal heir certificate or made party in the case. So, petitioner had no locus standi. In view of such facts and relying on the field inquiry, petitioner's appeal was dismissed.

5. Mr. Mohanty has not been able to show that in law his client is legal heir, when according to his own client, widow of the deceased is alive. It is no matter that she has not applied for legal heir certificate. The omission does not take away heirship nor does it confer heirship on petitioner. In such view of the matter, no inference is warranted with impugned order.

6. It is made clear, petitioner is at liberty to initiate action, if so advised, to challenge the legal heir certificate issued to opposite party

no.5 and 6,

7. The writ petition is disposed of.

(Arindam Sinha)
Judge

Sks

