

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.3625 of 2022

Dr. Susanta Kumar Patro

....

Petitioner

Mr. Bhagaban Behera, Advocate

-versus-

State of Odisha and others

....

Opp. Parties

Mr. Dillip Kumar Mishra,

Additional Government Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

11.02.2022

Order No.

01. 1. This matter is taken up through hybrid mode.
2. This writ petition has been filed assailing the order dated 15th July, 2013 (Annexure-1) passed by the Assistant Settlement Officer, Settlement Camp, Rental Colony, Bhubaneswar in *Suo Motu* Rent Objection Case No.5705 of 2013.
3. Mr. Behera, learned counsel for the Petitioner submits that the Petitioner has purchased the land in question from the lessee, namely, Narayan Behera, in whose favour the Sabik R.O.R. was prepared. He is the rightful owner in respect of the suit property. During settlement operation, the draft R.O.R. was also issued in his name. But, subsequently, *Suo Motu* Rent Objection Case No.5705 of 2013 was initiated and without issuing any notice and affording any opportunity to the Petitioner, the impugned order has been passed. As the impugned order was passed behind his back, he had no information about the same. Final R.O.R. in respect of the Sampur mouza has not yet been published. Hence, Mr. Behera, learned counsel for the Petitioner prays for setting aside the impugned order and to remit the matter back to the Assistant

Settlement Officer, Settlement Camp, Rental Colony, Bhubaneswar (now functioning at Major Settlement Office, Jobra, Cuttack) to adjudicate the matter afresh giving him an opportunity of hearing.

4. Mr. Mishra, learned Additional Government Advocate refuting such submission contended that the Assistant Settlement Officer has committed no error in initiating *suo moto* objection case. It is his submission that the impugned order under Annexure-1 is appealable one under Rule 42 of the Orissa Survey & Settlement Rules, 1962. Hence, this writ petition is not maintainable.

5. Taking into consideration the rival contentions of learned counsel for the parties and on perusal of Annexure-1, it is apparent that the Petitioner was not served with any notice in *Suo Motu* Rent Objection Case No.5705 of 2013 and was not afforded an opportunity of hearing. That be so, he is entitled to an opportunity to be heard in the matter. It is also contended by learned counsel for the Petitioner that in similar such cases, this Court has remitted the matter back to the Assistant Settlement Officer for fresh adjudication of the Objection Case giving opportunity of hearing.

6. In view of the discussion made above, this Court has no hesitation to set aside the order dated 15th July, 2013 (Annexure-1) passed by the Assistant Settlement Officer, Settlement Camp, Rental Colony, Bhubaneswar in *Suo Motu* Rent Objection Case No.5705 of 2013.

7. Accordingly, the impugned order under Annexure-1 is set aside and the matter is remitted back to the Assistant Settlement Officer, Settlement Camp, Rental Colony, Bhubaneswar (now functioning at Major Settlement Office, Jobra, Cuttack)-Opposite

Party No.5 for fresh adjudication giving opportunity of hearing to the parties concerned.

8. In order to avoid further delay in fresh adjudication of the matter, Mr. Behera, learned counsel for the Petitioner undertakes to intimate the Petitioner to appear before the Assistant Settlement Officer, Rental Colony, Bhubaneswar (now functioning at Major Settlement Office, Jobra, Cuttack-Opposite Party No.5) on 28th February, 2022 along with certified copy of this order to receive further instruction in the matter. On appearance of the parties, the Assistant Settlement Officer, Rental Colony, Bhubaneswar (now functioning at Major Settlement Office, Jobra, Cuttack) shall make an endeavour to adjudicate the matter afresh as expeditiously as possible preferably within a period of three months therefrom giving opportunity of hearing to the parties concerned.

9. Certified copy of Annexure-1 shall be returned to learned counsel for the Petitioner on substitution of attested photocopy thereof.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge