IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.160 OF 2017

Bijayalaxmi Panda	....	***Petitioner(s)***
		Mr.A.P.Bose, Advocate

-versus-

Additional Commissioner of Consolidation, Sambalpur and others	....	***Opposite Party(s)***
		Mr.S.Mishra,ASC
		Mr.K.Patnaik,Adv.for Opp. Party Nos. 4 to 7 & 9 to 11
		Mr.B.Bhuyan, Advocate

CORAM:
JUSTICE BISWANATH RATH

ORDER
07.07.2022

Order No.

13. **1.** Heard learned counsel for the Parties.

2. The Writ Petition involves a challenge to the order of the Rivisional Authority under Annexure-1 appears to have been passed in exercise of power under Section 37(I) of the O.C.H. & P.F.L. Act, 1972. Mr. Bose, learned counsel for the Petitioner more specifically submitted that the daughters claim the right of the father's property. In their challenge to the revisional order submits for a stake with the daughter for their involvement of father's property, in the interest of justice, in the proceeding initiated under Section 37(I) of the O.C.H. & P.F.L. Act, 1972 in the minimum, the Petitioner should have been made a party.

3. Taking this Court to the plea under Section 37(I) application, it is alleged that there has been no specific material disclosure creating

right in favour of the Petitioner so as to consider the Petitioner therein in exercise of power under Section 37(I) of the O.C.H. & P.F.L. Act. Reading through the impugned order the allegation is also made that there has been mechanical dismissal of the claim and the claim is made as the Petitioner has a stake involving the disputed property, such proceeding should not have been decided in absence of the present Petitioner.

4. In course of submission, Mr. Bhuyan, learned counsel appearing for the Opposite Parties though did not dispute that there has been no clear apparent disclosure claiming the right involved therein through the material documents but there has been pleading to the extent that there has been family arrangements, the foundation making such claim. In course of hearing, Civil Court decree is also produced by Mr. Bhuyan, learned counsel for the Opposite Parties to satisfy his case being the foundation of the revisional Petitioner in making a claim in exercise of power under Section 37(I) of the O.C.H. & P.F.L. Act.

5. Considering the rival contentions of the Parties and going through the pleadings taken in the Application reading into initiation of proceeding under Section 37(I) of the O.C.H. & P.F.L. Act, this Court finds in fact, there is no specific pleading except there is mentioning that relief claimed through family arrangements attended to between the Parties. There is no intimation of Civil Court decree, if available for consideration. It is at this stage of the matter, looking to the ground stated in the Writ Petition, this Court finds in the event Civil Court decree is existed, nothing prevented the revisional Petitioner to bring such development on record at least to satisfy their case to keep the daughter's away of proceeding. For there is no disclosure on the foundation of making such claim and the dispute being raised through the Writ Petition, one of the daughter also staking claim involving the

father's share, for the opinion of this Court, in the interest of justice, the daughter should have been involved in the proceeding under Section 37(I) of the O.C.H. & P.F.L. Act. In the process and for non-involvement of the daughter and/or for no clear disclosure in the foundation involving the 37(I) of the Act, this Court finds the impugned order is not sustainable. Interfering in the order at Annexure-3 at Page-26, this Court sets aside the same, remit the matter back to the Additional Commissioner of Consolidation, Sambalpur for re-adjudication of the proceeding but however in the involvement of the Petitioner. It will be open to the private Opposite Parties herein to move a formal application for addition of the Petitioner as a Party to the proceeding. Revisional Petitioner filing the formal application to make the daughter, a party in the proceeding below and in such event the application will be allowed. As the matter in hand is decided in the presence of the Petitioner. The Petitioner is directed to produce the copy of this order and participate in the revision involved herein. For Petitioner voluntarily to file Appeal in the Revisional Authority, it is made clear that there shall be no further notice to the Petitioner.

6. The Parties are directed to appear before the Revisional Authority on 26th July, 2022 along with certified copy of this order. All the Parties are also liberty to bring their case and/or further case, if any, and the revision will be decided in accordance with law afresh by providing reasonable opportunity to all the Parties concerned. Since, this Court sets aside the order at Annexure-3, all consequential action pursuant to Annexure-3 stands terminated.

7. In further consideration of the submission of counsel for both Parties, this Court clarifies in the fresh determination of the proceeding under Section 37(I) of the O.C.H. & P.F.L. Act, all Parties are at

liberty to bring direction of this Court dated 19.05.2017 and such direction would also be kept in mind in final adjudication of the matter.

(Biswanath Rath)
Judge

Swarna