

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 4109 OF 2022

Krushna Chandra Mahakud ***Petitioner***

Mr. Laxman Pradhan, Advocate

-versus-

State of Odisha and others ***Opp. Parties***

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

25.04.2022

Order No.

2. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition prays for a direction to set aside the order dated 22nd April, 2021 (Annexure-4) passed by the Revenue Divisional Commissioner, Southern Division, Berhampur in OSSARC No. 268 of 2018 dismissing the revision filed by the Petitioner under Section 15(b) of the Orissa Survey and Settlement Act, 1958 (for short 'the Act'). The Petitioner also prays for a direction to settle Halt Plot No.1746 to an extent of Hc.0.013 under Hal Khata No. 668 corresponding to Sabik Plot No.854/973 to an extent of Hc.0.030 under Sabik Khata No.240 situated in mouza Phulbani Sahi under Kandhamal Tahasil in the district of Kandhamal (for short 'the case land') in his name.
3. Mr. Pradhan, learned counsel for the Petitioner submits that the claim of the Petitioner for recording of the case land is on the basis of long possession. Admittedly, the case land was recorded in the name of Government in Sabik R.O.R. published in the year, 1983. But, in the remark column of the said R.O.R., illegal note of possession of the father of the Petitioner was

reflected. During settlement operation, neither the father of the Petitioner nor he could take any step to record the land in his name. Hence, the Petitioner filed a revision under Section 15(b) of the Act to correct the R.O.R. and settle the case land in his favour. It is his submission that the Revenue Divisional Commissioner has ample power to direct the competent authority to settle a Government land by initiating a proceeding under Section 8-A of the Orissa Prevention of Land Encroachment Act, 1972 (for short 'OPLE Act') in favour of the Petitioner. But, the Revenue Divisional Commissioner without taking into consideration these relevant factors dismissed the revision petition. Hence, this writ petition has been filed.

4. Mr. Mishra, learned Additional Standing Counsel relying upon the counter affidavit submits that no encroachment case has yet been initiated against the Petitioner for alleged encroachment of Government land. As such, settlement of the case land under Section 8-A of the OPLE Act is *misnomer*. The Petitioner has no semblance of right to occupy a piece of valuable Government land. Hence, he prays for dismissal of the writ petition.

5. Taking into consideration the submissions of learned counsel for the parties and on perusal of the record, this Court finds that the case land was recorded in Government khata in the sabik R.O.R. published in the year, 1983 and the same was reiterated in the Hal Settlement. Although the Petitioner alleges that his father was encroaching upon the case land and was in possession, no endeavour whatsoever was made by him at any stage for recording of the case land in his name. Further, the authorities while exercising power under Section 15(b) of the Act have no jurisdiction to settle a piece of land in favour of an encroacher. Mr. Pradhan, learned counsel for the Petitioner has

also miserably failed to persuade this Court to believe that the Petitioner has any semblance of right to occupy a piece of Government land. Hence, I find no infirmity in the impugned order.

6. Accordingly, this writ petition being devoid of any merit stands dismissed.

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

(K.R. Mohapatra)
Judge

bks

