

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) NO. 4865 OF 2022

Gurucharan Singh Saluja

.... ***Petitioner***

Mr. Bidesh Ranjan Behera,
Advocate

-versus-

State of Odisha and others

.... ***Opp. Parties***

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:
JUSTICE K.R. MOHAPATRA

Order No.

ORDER
29.03.2022

- 2.
1. This matter is taken up through hybrid mode.
 2. The Petitioner in this writ petition seeks for a direction to the Tahasildar, Sadar, Sambalpur to make a fresh enquiry in accordance with law in the pending Nazul Misc. Case No. 12 of 1991 within a stipulated period by providing opportunity of hearing to the Petitioner pursuant to the order dated 30th November, 1996 (Annexure-7) passed by the Collector, Sambalpur in OGLS Revision No. 14 of 1995.
 3. Taking into consideration the submission made by learned counsel for the Petitioner, this Court vide order dated 15th March, 2022 directed learned State Counsel to take instruction in the matter.
 4. Mr. Mishra, learned Additional Standing Counsel submits that he has received written instruction vide Letter No. 2872 dated 28th March, 2022, which reads as under:

“In inviting a kind reference to the subject cited above I am to say that Hon’ble Court has directed to obtain instruction and filed Counter Affidavit before the

next date i.e. 29.03.2022. In this regard I am to submit that, the OGLS Case record bearing no.08/2012 tagged with Nazul renewal case no.339/69 along with Nazul Misc. Case no.12/1991 has been received by the O.P. No.3 i.e. Tahasildar, Sambalpur on 22.03.2022 from District Office for “re-examination and process as per new guideline/circular issued by Government.”

I would therefore request the Hon’ble Court to allow a period of 3 month of time for disposal of the case, for this act of kindness, the O.P. No.3 shall as in duty bound ever pray.”

Copy of the said written instruction submitted by learned Additional Standing Counsel is taken on record and a copy of the same is made over to Mr. Behera, learned counsel for the Petitioner.

5. In view of such instruction, Mr. Behera, learned counsel for the Petitioner submits that while disposing of the application in Nazul Misc. Case No. 12 of 1991, the Tahasildar, Sadar, Sambalpur should take into consideration the provisions of Clause-VII of the Schedule-V of the Orissa Government Land Settlement Rules, 1983 (for short ‘the Rules’) for settlement of Gramakantha Paramboke, Abadi (Basti), Khasmahal or Nazul lands for homestead purpose. Clause-7 of the Schedule-V of the Rules reads as follows:

*“7. **Miscellaneous provisions**-(a) Applications, if any, received before the coming into force of the Orissa Government Land Settlement (Amendment) Rules, 2010 for settlement of Gramakantha Paramboke, Abadi (Basti), Khasmahal or Nazul lands shall be deemed to be applications received under this Schedule and shall be disposed of in accordance with this Schedule notwithstanding that the applications have not been made in Form I.*

(b) Persons who have been granted lease of Gramakantha Paramboke, Abadi (Basti), Khasmahal and Nazul land prior to commencement of the Orissa Government Land Settlement (Amendment) Act, 2009 shall be eligible for settlement of land in accordance with the provisions of this Schedule.

(c) Government shall have powers to issue executive instructions not inconsistent with the provisions of these rules to the authorities entrusted with the responsibility for settlement of land under these rules.”

6. Mr. Mishra, learned Additional Standing Counsel submits that the Tahasildar, Sadar, Sambalpur while adjudicating the matter should also take into consideration the prevailing instruction issued from time to time by the State Government.

7. Taking into consideration the submissions of learned counsel for the parties, this Court without expressing any opinion on the merits of the case of the Petitioner disposes of this writ petition with a direction to the Tahasildar, Sadar, Sambalpur-Opposite Party No.3 to dispose of Nazul Misc. Case No. 12 of 1991 in accordance with law as expeditiously as possible preferably by the end of July, 2022 taking into consideration the principles enumerated in Clause-VII of the Schedule-V of the Rules, as quoted above, as well as the prevailing instruction of the Government in dealing with such matter.

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

(K.R. Mohapatra)
Judge

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