

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 4927 OF 2022

Kapila Charan Pradhan and others* *Petitioners

Mr. S.P. Mishra, Senior Advocate
being assisted by Mr. Soumya Mishra,
Advocate

-versus-

State of Odisha and others.* *Opp. Parties

Mr. Dillip Kumar Mishra,
Additional Government Advocate

**CORAM:
JUSTICE K.R. MOHAPATRA**

**ORDER
18.02.2022**

Order No.

1. This matter is taken up through hybrid mode.
2. The Petitioners in this writ petition pray for a direction to set aside the order dated 16th April, 2021 (Annexure-10) passed by the Deputy Director, Consolidation, Bhubaneswar in Appeal Case No. 09 of 2017, by which the matter is remitted to the Additional Sub-Collector, Puri-cum-Consolidation Officer, Nimapara-Opposite Party No.4 for fresh adjudication of Remand Revision Case No.371 of 2015.
3. It is submitted by Mr. Mishra, learned Senior Advocate appearing for the Petitioners that assailing the order under Annexure-10, the Petitioners have filed R.C. Case No. 65 of 2021 before the Commissioner, Consolidation, Bhubaneswar. Along with the said application, the Petitioners have also filed an application under Annexure-20 for interim protection. Although notices have already been issued to the Opposite Parties therein and the matter is next posted to 11th March, 2022, the Opposite Party No.4 without

considering the same is bent upon to give effect to the order passed under Annexure-10. Thus, the Petitioners are seriously prejudiced. In the event the Opposite Party No.4 implements the order passed by the Deputy Director under Annexure-10, the revision petition will be otiose. Hence, for the interest of justice, the Opposite Party No.4 should stay the proceeding till disposal of Revision Case No. 65 of 2021 pending before the Commissioner, Consolidation, Bhubaneswar. It is further submitted that the Petitioners have also filed an application before the Additional Sub-Collector, Puri-cum-Consolidation Officer Circle, Nimapara-Opposite Party No.4 for stay of the proceeding pending before him till disposal of R.C. Case No.65 of 2021. Neither the Commissioner, Consolidation, Bhubaneswar nor the Additional Sub-Collector, Puri-cum-Consolidation Officer Circle, Nimapara is taking up the interim application for which the Petitioners have become remediless. Hence, he prays for a direction the Commissioner, Consolidation, Bhubaneswar to take up the petition for interim order on the date fixed, i.e. on 11th March, 2022 and prays for interim protection till that date.

4. Mr. Mishra, learned Additional Government Advocate raising objection to the same submits that the Additional Sub-Collector, Puri-cum-Consolidation Officer Circle, Nimapara is proceeding in accordance with the direction issued under Annexure-10. He has no jurisdiction to keep his hands tight unless the order under Annexure-10 is varied or modified. In that view of the matter, the Petitioners may move the revisional court in R.C. Case No. 65 of 2021 for interim protection, if so advised.

5. Taking into consideration the submissions made by learned counsel for the parties, this Court is of the considered view that since the Commissioner, Consolidation, Bhubaneswar is in *seisin* over the matter, this Court should not express any opinion on the merits of the case of the parties. But the Commissioner, Consolidation, Bhubaneswar should take up the interim application at the earliest to protect the interest of the parties during pendency of the revision case.

6. In that view of the matter, this writ petition is disposed of with a direction to the Commissioner, Consolidation, Bhubaneswar- Opposite Party No.2 to take up the interim application on the date fixed, i.e. on 11th March, 2022 and pass a reasoned order in accordance with law. Till the petition for interim protection is taken up by the Commissioner, Consolidation, Bhubaneswar, further proceedings in Remand Appeal Case No. 9 of 2017 pending before the Additional Sub-Collector, Puri-cum-Consolidation Officer Circle, Nimapara-Opposite Party No.4 shall remain stayed.

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

(K.R. Mohapatra)
Judge

bks/ms