

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.6060 of 2022

(Through Hybrid mode)

Surya Narayan Sahoo and others

Petitioners

Mr. Prakash Kumar Mishra, Advocate

-versus-

State of Odisha and others

Opposite Parties

Mr. A. K. Nanda, AGA

CORAM:

JUSTICE ARINDAM SINHA

JUSTICE GOURISHANKAR SATAPATHY

ORDER

18.11.2022

Order No.

- 06.
1. Mr. Mishra, learned advocate appears on behalf of petitioners and submits, impugned is order dated 14th January, 2002 of resumption made by the Additional Tahsildar. He submits, it will be clear from face of the order that his clients were not given opportunity of hearing. His clients have said so in paragraph 8 of the writ petition.
 2. Mr. Nanda, learned advocate, Additional Government Advocate appears on behalf of State and submits, the procedure for giving notice to petitioners as well as the public at large were duly followed. No objection was received. Proper inquiry was made and on

finding that the land was not ever used for agriculture, purpose of the lease, there was direction for resumption. In the circumstance, Court should not interfere.

3. It appears from impugned order that the exercise was done pursuant to order dated 29th January, 1996 in OJC no.9449 of 1993. Parties submit, it was a Public Interest Litigation (PIL). Impugned order goes on to say that the case was initiated and notice issued to, inter alia, the lessee, who is predecessor-in-interest of petitioners herein.

4. Mr. Mishra draws attention to memorandum of spot inquiry in that waste land case, signed on 14th January, 2002. The report is reproduced below.

“During my spot visit with R.I. Paikarapur it is revealed that the lessee has transferred the land and not in possession of the suit land. The land is lying vacant and not used for agriculture purpose.”

He then draws attention to extract of the ROR, which mentions it is pursuant to case no.472 of 1984 and his clients. Mr. Nanda responds that there was direction for notice on 22nd December, 2001 and since petitioners are transferees, publication of such notice by beat of drum was sufficient notice.

5. We reproduce below text of order dated 22nd December, 2001 directing issue of notice.

“Upon perusal of the observation of the Hon’ble High Court communicated vide OJC No.9449/93 issue notice to the lessee/affected parties to appear on 14.01.2002 at Nuagaon for verification of documents.

Issue general Notice inviting objection if any with copies to concerned G.P./Municipality/concerned Mouza/notice board of the Tahasil Office for wider publication.”

It appears the direction was for issuance of notice on lessee/affected parties to appear on 14th January, 2002 and thereafter for issuance of general notice inviting objection. There is nothing on record to show that the affected person, obviously petitioners, was noticed since petitioners’ name stood recorded in the ROR. In the circumstances, we are satisfied that petitioners were denied opportunity of hearing.

6. Impugned order is set aside and quashed. In view of submission made on behalf of State regarding non co-operation of petitioners, we proceed to fix the time for hearing.

7. Opposite party no.4 will give hearing to petitioners on 7th December, 2022, as prayed for by Mr. Nanda, at 3:00 P.M. Thereupon said opposite party may require further hearing but the case should be expedited and dealt with within four weeks thereafter.

Petitioners, with all relevant documents, must present themselves for the hearing. They may be allowed to be represented.

8. The writ petition is disposed of.

(Arindam Sinha)
Judge

(G. Satapathy)
Judge

Prasant

