

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 8372 OF 2021

Sukumar Das

Petitioner

Mr. Santanu Kumar Sarangi,
Advocate

-versus-

State of Odisha and others

.... ***Opp. Party***

Mr. Dillip Kumar Mishra,
Additional Government Advocate

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

**ORDER
26.04.2022**

Order No.

10. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition seeks for a direction to the Opposite Parties more particularly the Opposite Party No.2-Tahasildar, Bhubaneswar to accept rent in respect of Plot No.516/1751 (part) to an extent of Ac.0.051.6 decimals with a dimension of 45' x 50'(2250 sqft.) under Khata No.474/2175 situated in Mouza Patia under P.S. Chandrasekharapur in the district of Khurda.
3. This Court vide order dated 21st September, 2021 directed learned State Counsel to take instruction as to whether rent can be accepted in respect of the Unit in question without prejudice to the rights and claim of the parties. In response to the same, Mr. Mishra, learned Additional Government Advocate produces a copy of the written instruction provided by the Tahasildar, Bhubaneswar vide Letter No.2454 dated 17th March, 2022 indicating as under:

“ Sir,

With reference to the letter on the subject cited above, I am to say that the petitioner has filed the aforementioned writ petition in the Hon'ble High Court for issue of direction to the Opposite Party No.2 for acceptance rent in respect of Khata No.474/2175, Plot No.516/1751 of Mouza- Patia.

That, necessary counter affidavit in this case has already been filed on dtd.28.7.2021.

That, in reply to the kind order dtd. 21.9.2021 of the Hon'ble High Court passed in the aforesaid writ petition, it is humbly submitted that, the practice of issuing receipt having affixed with seal of “without Prejudice” has been continuing since long in a view to make collection of land rent as per the tenant ledger. But this receipt without prejudice will never be counted as a piece of evidence for the land right of the depositor.

In this connection, the relevant portion of order passed by the Hon'ble High Court in the case of Magu Sahu Vs. Bhramarbara Behera and others, 44(1977)CLT 65 is extracted hereunder.

The rent receipts were granted without prejudice. This Court in the case of Magu Sahu Vrs. Bhramarbara Behera and others, 44(1977) CLT 65 held that the words “without prejudice” import into any transaction that the parties have agreed that as between themselves the receipt of money by one and its payment by the other shall not by themselves have any legal effect on the rights of the parties, but they shall be open to settlement by legal controversy as if the money had not been paid. Acceptance of rent under such rent receipts cannot confer any tenancy interest. The substantial questions of law are answered accordingly.

As such rent can be accepted without prejudice of the rights of the parties.

I would request you to please place the above fact before the Hon'ble Court for kind perusal and other.”

4. In that view of the matter, this writ petition is disposed of with a direction that the Tahasildar, Bhubaneswar-Opposite Party No.2 shall accept the rent from the Petitioner in respect of the land in question, without prejudice to the claim of the parties till a decision is taken in that regard by the Competent Authority.

A copy of the order shall be supplied to Mr. Mishra, learned Additional Government Advocate for communication and compliance.

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

(K.R. Mohapatra)
Judge

ms

