

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 7666 of 2022

Pruthwiraj Behera

.....

Petitioner

Mr.Tusar Kumar Mishra, Advocate

-versus-

State of Odisha and others

....

Opp. Parties

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

06.04.2022

Order No.

1. This matter is taken up through Hybrid mode.
2. Petitioner in this writ petition prays for a direction to Tahasildar, Gop- Opposite Party No.3 to dispose of Mutation Case No.1081 of 2021 within a stipulated time.
3. Mr. Mishra, learned counsel for the Petitioner submits that by virtue of registered sale deed No.11502100470 dated 3rd May, 2021 (Annexure-2), the Petitioner purchased an area Ac.0.26.5 kadi from the recorded tenant. Similarly, one Jasmini Bibi, wife of Sk. Kalu also purchased a similar extent of land from the recorded tenant. On purchase, the Petitioner filed Mutation Case No.1081 of 2021 to record Ac.0.26.5 kadi from out of Plot No.1758 in his name. It is his submission that on purchase, possession of the land in question was delivered to the Petitioner and he is in peaceful occupation of the same exercising right, title and interest thereon. In the meantime, said Jasmini Bibi created disturbance in the peaceful possession of the Petitioner for which the Petitioner filed CS No.153 of 2021

in the Court of learned Civil Judge (Senior Division), Nimapara for a decree that the Defendant-Jasmini Bibi has no right, title and interest over the suit land and for permanent injunction. On a petition in IA No.90 of 2021 filed under Order XXXIX Rules 1 and 2 CPC, learned Civil Judge (Senior Division, Nimapara directed the parties to maintain status quo over the suit property. The Tahasildar, Gop-Opposite Party No.3 taking advantage of pendency of the CS and interim order passed therein is not proceeding with the matter. Hence, this writ petition has been filed for the aforesaid relief.

4. It is his submission that the Tahasildar, Gop is of the considered opinion that the Mutation Case cannot be entertained on merit in view of pendency of the Civil Suit. When a Mutation Case is filed, it has to reach its logical conclusion in terms of the Notification dated 28th June, 2017 and 26th February, 2020 issued by Revenue and Disaster Management Department, Government of Odisha. Hence, he prays for a direction for early disposal of Mutation Case No.1081 of 2021.

5. Mr. Mishra, learned ASC on instruction submits that in the meantime said Jasmini Bibi, wife of Sk. Kalu has filed an objection to Mutation Case No.1081 of 2021 on 20th July, 2021 and considering the same, the Tahasildar, Gop issued notice to the parties on 3rd January, 2022. As such, steps are being taken for disposal of the Mutation Case in accordance with law by the Tahasildar, Gop.

6. Taking into consideration the submissions made by learned counsel for the parties, this Court is of the considered opinion that no fruitful purpose will be served by keeping

Mutation Case No.1081 of 2021 pending due to pendency of CS No.153 of 2021. If the Tahasildar, Gop is of the opinion that he cannot pass any order on merit of the Mutation Case due to pendency of the Civil Suit as well as interim order passed therein, he may drop the Mutation Case granting liberty to the parties to agitate their grievance after disposal of the suit, if any cause of action arises.

7. In view of the above, this Court, disposes of the writ petition with a direction to Tahasildar, Gop-Opposite Party No.3 to take a decision on Mutation Case No.1081 of 2021 in accordance with law giving opportunity of hearing to the parties concerned, as expeditiously as possible, preferably within a period of two months from production of certified copy of this order, keeping in mind the observation made hereinabove.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge