

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 7708 of 2022

Sashibhusan Routra and others ***Petitioners***
Mr. Dwarika Prasad Mohanty, Advocate

-versus-

State of Odisha and another ***Opp. Parties***
Mr. Sarojananda Mishra,
Additional Government Advocate

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
09.05.2022

Order No.

2. 1. This matter is taken up through Hybrid mode.
2. 2. Petitioners in this writ petition seek to assail order dated 23rd June, 2021 (Annexure-10) passed in Revision Petition No.2548 of 2001, whereby the Commissioner, Land Records and Settlement, Odisha, Cuttack-Opposite Party No.2 dismissed the revision petition filed by the Petitioners under Section 15(b) of the Odisha Survey and Settlement Act, 1958 (for short, 'the Act').
3. 3. Mr. Mohanty, learned counsel for the Petitioners submits that Sabik Plot No.994 under Sabik Khata No.207 was published in the name of one Hariballav Das and others, which included the name of ancestors of the Petitioners, namely, Nanda Kishore Routra, Udaya Narayan Mangaraj Mohapatra, Nilamani Mandhata Mohapatra and Parameswar Mohapatra @ Pitambar Nayak (Annexure-1) under Nijjot status. R.O.R. under Section 116(2) of the Odisha Tenancy Act, 1913 (Annexure-2) was also published under Nijjot status, in the name of

Hariballav Das and others in the 1st Part under Khewat No.2 in respect of the case land showing Nanda Kishore Routra to be in possession over the land in question. During settlement operation, the land in question was published in Hal Plot No.1198 to an extent of Ac.0.97 decimals under Hal Khata No.836 in the name of State Government for which the Petitioners filed revision under Section 15(b) of the Act.

3.1 It is his submission that the Commissioner, without verifying the Sabik records and by misconstruing that said Hariballav Das was only recorded tenant under Nijjot status in respect of the land in question, dismissed the revision for which this writ petition has been filed. He, therefore, prays for setting aside the impugned order and to remit the matter back to the Commissioner, Land Records and Settlement, Odisha, Cuttack for fresh adjudication by verifying the Sabik and Hal records.

4. This matter was listed on 19th April, 2022 on which date, this Court, while issuing notice in the matter, directed learned State Counsel to file counter affidavit, if any. Today, Mr. Mishra, learned Additional Government Advocate prays for further adjournment to file counter affidavit. He, however, submits that if the submission of Mr. Mohanty, learned counsel for the Petitioners is accepted, then the revision petition would require fresh consideration.

5. On perusal of the impugned order, this Court finds that submission of Mr. Mohanty, learned counsel for the Petitioner was not taken into consideration at the time of adjudication of the revision petition.

6. Perusal of Annexures-1 and 2 prima facie discloses that the ancestors of the Petitioners were the recorded tenants of the land in question in respect of land in Sabik records. On perusal of the impugned order, it appears that said fact was not taken into consideration by the revisional Court. Mr. Mishra, learned Additional Government Advocate, in course of hearing, submits that after recording of the name of Hariballav Das under Annexure-1, there is a blank space before reflecting the name of Nanda Kishore Routra and others. This fact requires consideration by examining the record in original.

7. In view of the discussions made above, this Court is of the considered opinion that the matter requires fresh adjudication by the revisional Court. Accordingly, the impugned order under Annexure-10 is set aside and the matter is remitted back to the Commissioner, Land Records and Settlement, Odisha, Cuttack for adjudication of the Revision Petition No.2548 of 2001 afresh in accordance with law giving opportunity of hearing to the parties concerned.

8. In order to avoid further delay in the matter, learned counsel for the parties are directed to appear before the Commissioner, Land Records and Settlement, Odisha, Cuttack on 23rd May, 2022 along with certified copy of this order to receive further instruction in the matter. On appearance of the learned counsel for the parties, the Commissioner shall also make an endeavour for disposal of the matter at an early date, preferably within a period of six months, if there is no legal impediment.

9. With the aforesaid observation and direction, this writ petition is disposed of.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge

s.s.satapathy

