

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C) No. 7729 of 2022**

***Jayadeb Ghosh***

***.... Petitioner***

Mr.H.N.Mohapatra, Advocate

*-versus-*

***State of Odisha and others***

***.... Opp. Parties***

Mr. S.N. Mishra,

Additional Government Advocate

**CORAM:**

**JUSTICE K.R. MOHAPATRA**

**ORDER**

**19.04.2022**

**Order No.**

1. This matter is taken up through hybrid mode.
2. Petitioner in this writ petition seeks for a direction to quash the proceedings in Mutation Case No.404 of 2022 pending before Tahasildar, Satyabadi-Opposite Party No.2.
3. Mr. Mohapatra, learned counsel for the Petitioner submits that earlier Opposite Party No.5, namely, Bhagirathi Mallick initiated Mutation Case No. 2009 of 2019 on the basis of RSD dated 12<sup>th</sup> June, 2019. Said Mutation case was initiated through Janaseba Kendra by filing the aforesaid RSD. Petitioner appeared and filed objection stating that Civil Suit No.352 of 2019 is pending before learned Civil Judge (Senior Division), Puri, wherein the validity of the said RSD is under challenge and prayer has been made to declare the same void and not binding on the Petitioner. An interim order of status quo has also been passed in IA No.98 of 2019 in the said suit. Said Interim order of status quo is still in force. Taking into consideration the objection filed by the Petitioner, Mutation Case No.2009 of 2019 was dropped vide order dated 4<sup>th</sup> January, 2022 by the Tahasildar, Satyabadi under Annexure-7.

Suppressing the same, Opposite Party No.5 again filed Mutation Case No.404 of 2022 in respect of the self-same land through Janaseba Kendra without filing any RSD.

3.1 It is his submission that in view of the fact that mutation proceeding in respect of the self-same land has already been dropped by the Tahasildar, Satyabadi, subsequent proceeding is not maintainable. Initiation of subsequent Mutation Case, i.e., Mutation Case No.404 of 2022 is also the outcome of suppression of material fact and abuse of process of Court. As such, he prays for quashing of the subsequent mutation case pending before Tahasildar, Satyabadi.

4. Mr. Mishra, learned AGA, on the other hand, submits that the mutation case can be initiated through Janaseba Kendra and the concerned Tahasildar is competent to entertain the same. If the Petitioner has any grievance with regard to maintainability of the said mutation case, he should have filed an objection to that effect before approaching this Court. In that view of the matter, the writ petition is premature and is liable to be dismissed.

5. Taking into consideration submissions of learned counsel for the parties and on perusal of record, it reveal that Mutation Case No.2009 of 2019 was initiated by Opposite Party No.5 and was dropped by order dated 4<sup>th</sup> January, 2020 taking into the objection filed by the Petitioner. It is submitted by Mr. Mohapatra, learned counsel for the Petitioner that subsequent mutation case has been initiated in respect of the self-same land. Opposite Party No.5 is claiming title through the RSD dated 12<sup>th</sup> June, 2019, which is under challenge in CS No.352 of 2019 and an interim order of status quo has been

passed. All these facts should be brought to the notice of Tahasildar, Satyabadi for consideration. It is also revealed from the record that although the Petitioner has filed objection in Mutation Case No.404 of 2022, but issue of maintainability of the Mutation Case has not been specifically raised in the said objection. Mr. Mohapatra, learned counsel for the Petitioner, however, submits that if permitted the Petitioner will file separate application raising the issue of maintainability of the Mutation Case No.404 of 2022 pending before Tahasildar, Satyabadi.

6. In that view of the matter, this Court disposes of the writ petition with a direction that in the event Petitioner files an application raising the issue of maintainability of Mutation Case No.4040 of 2022 within a period of two weeks hence along with certified copy of this order, Tahasildar, Satyabadi shall do well to consider the same in accordance with law, as expeditiously as possible preferably within a period of eight weeks there from giving opportunity of hearing to the parties concerned and pass a reasoned order there on before proceeding with Mutation Case No.404 of 2022.

Issue urgent certified copy of the order on proper application.

**(K.R. Mohapatra)**  
**Judge**

s.s.satapathy