

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 10426 OF 2021

Arnapurna Devi @ Pati

....

Petitioner

Mr. Mahitosh Sinha, Advocate

-versus-

State of Odisha and others

....

Opp. Parties

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

22.04.2022

Order No.

4. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition seeks to assail the order dated 4th March, 2015 (Annexure-9) passed by the Commissioner, Consolidation and Settlement, Odisha, Bhubaneswar in R.P. No.102 of 2012, whereby he dismissed the revision petition filed by the Petitioner under Section 15(b) of the Odisha Survey and Settlement Act, 1958 (for short 'the Act').
3. Mr. Sinha, learned counsel for the Petitioner submits that although the Petitioner has purchased Plot No.2411 to an extent of Ac.0.240 decimals out of Ac.0.320 decimals under Khata No.281 of Mouza Mancheswar, which corresponds to Sabik Plot No.907 under Khata No.420 to an extent of Ac. 0.23 ½ decimals out of Ac.0.47 decimals of the said mouza in the district of Khurda (for short 'the case land'). The Plot number is inadvertently mentioned as Plot No.2441 in the sale deed executed by her vendor. The said defect had also crept in the sale deed when her vendor had purchased the land. Although the sale deed executed in favour of her vendor had been rectified and the R.O.R. was consequently corrected, but in the Hal R.O.R., the land in question was recorded in the name of Prafulla

Kumar Pradhan, Prasanna Kumar Pradhan, son of Sudhakar Pradhan, Bhaskar Pradhan, son of Satyapir Pradhan and Ajaya Kumar Beura, Bijaya Kumar Beura son of Janakar Beura for which the Petitioner had filed Revision Petition No.102 of 2012 and the impugned order under Annexure-9 has been passed.

4. It is his submission that although the Commissioner could detect the bona fide mistake while adjudicating the matter, he refused to entertain the revision petition holding as under:

“.....There is mismatch of plot numbers in R.O.R. with the R.S.Ds. The advocate for the petitioner has failed to clarify regarding this. The Plot no. in both R.S.Ds 68 and 1972 indicated in 2441, whereas the suit plots mentioned in the Hal is 2411. As the two plots vary in number it is not possible to allow the revision. Revision petition is disallowed”

5. Mr. Sinha, learned counsel for the Petitioner further submits that although at the time of adjudication of R.P. No. 102 of 2012, he could not produce the materials in support of his case, but at present, the Petitioner has sufficient materials to justify her claim. He, therefore, submits that interest of justice will be best served, if the impugned order is set aside and the matter is remitted back to the Commissioner, Consolidation and Settlement, Odisha, Bhubaneswar to give the Petitioner an opportunity of hearing to put-forth her case by producing relevant records/documents. In support of his contention, he also relied upon the decision in the case of ***Santi Ranjan Das Gupta –v- Dasuram Mirzamal Firm***, reported in AIR 1957 Assam 49.

6. Mr. Mishra, learned Additional Standing Counsel vehemently objects to the same and submits that unless the error, if any, in the

Registered Sale Deeds executed in favour of the Petitioner is rectified by following due procedure of law, the Commissioner while exercising power under Section 15(b) of the Act, cannot go into the correctness of the same and direct to record the case land in favour of the Petitioner. In support of his case, he also referred to Section 17 of the Registration Act and Rule 95 of the Odisha Registration Rules, 1988 as well as the case law in the case of ***Sambhu Nath Dalal & another –v- Radharaman Middya & others***, reported in (2003) 1 Cal LT 301.

7. Heard learned counsel for the parties and perused the materials placed before this Court including the case law.

8. Although the impugned order was passed in the year 2015, this Court taking into consideration the age of the Petitioner as well as contentions raised by learned counsel for the parties feels it proper to entertain the writ petition.

9. Taking into consideration the facts and circumstances of the case, this Court is of the considered view that the matter requires fresh consideration as the materials produced and contention raised before this Court were neither raised nor considered at the time of adjudication of the revision petition.

10. Accordingly, the impugned order under Annexure-9 is set aside and the matter is remitted back to the Commissioner, Consolidation and Settlement, Odisha, Bhubaneswar to adjudicate the matter afresh giving opportunity of hearing to the parties concerned.

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

(K.R. Mohapatra)
Judge