

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 7458 OF 2019

Prahallad Nanda and others

Petitioners

Mr. Pradeep Kumar Mohapatra,
Advocate

-versus-

State of Odisha and others

.... Opp. Parties

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

02.05.2022

Order No.

7. 1. This matter is taken up through hybrid mode.
2. The Petitioners in this writ petition seek to assail the order dated 19th May, 2017 (Annexure-3) passed in Revision Petition No.445 of 2015, whereby the Director, Consolidation dismissed the revision holding that since final publication of R.O.R. under Section 22(2) of the Act has already been made on 17th January, 1984 and notification under Section 41(1) of the Act has already been made since 19th February, 2016, the Court does not want to exercise the jurisdiction under Section 37(2) of the Orissa Consolidation of Holdings and Prevention of Fragmentation of Land Act, 1972 (for short, 'the Act')
3. Mr. Mohapatra, learned counsel for the Petitioners submits that after publication of final R.O.R. under Section 22(2) of the Act on 17th January, 1984, some of the villagers moved the Director, Consolidation under Section 37(2) of the Act in Revision Petition No.4520 of 2001. Although the Director, Consolidation had no

jurisdiction to entertain revision under Section 37(2) of the Act after final publication of the R.O.R. under Section 22(2) of the Act, but by entertaining the revision, the Director, Consolidation directed the Consolidation Officer, Kujanga to start consolidation work afresh from the stage of Section 13(1) of the Act. Thus, the Consolidation Officer proceeded with the consolidation operation and R.O.R. was again published on 24th July, 2013 under Section 22(2) of the Act. Thereafter, notification for closure of consolidation operation under Section 41(1) of the Act was also published on 19th February, 2016. As there were some irregularities in the consolidation operation and the Petitioners were not satisfied with the carving of chaka, they filed Revision Petition No.445 of 2015 under Section 37(2) of the Act before the Director, Consolidation and the impugned order under Annexure-3 has been passed.

4. Mr. Mohaptra, learned counsel for the Petitioners referring to the report of the Additional Sub-Collector, Kujang under Annexure-2 submits that 50% of the villagers are not satisfied with carving of chaka and opposed to the demarcation. Thus, the demarcation of chaka could not be made. This material fact was completely brushed aside by the Director, Consolidation while adjudicating the revision. By misreading the report of the Additional Sub-Collector, Kujang, the impugned order has been passed under Annexure-3, which is not sustainable in the eyes of law.

5. Mr. Mishra, learned Additional Standing Counsel referring to the counter affidavit submits that the Petitioners are in habit of creating disturbance in the consolidation operation. The Petitioner No.1 as well as some other Petitioners had participated in the village

committee meeting and signed the Sabha Bahi (resolution book) on 16th September 2005 endorsing their satisfaction with regard to carving of Chaka. Thus, they are estopped to raise objection subsequently to the same by filing a revision. He further submits that although the Director, Consolidation, Odisha, Cuttack had no jurisdiction to entertain Revision Petition No.4520 of 2001 filed under Section 37(2) of the Act, but the said order was never challenged. On the other hand, pursuant to the said direction, the consolidation operation was done afresh from the stage of Section 13(1) of the Act. Ultimately, R.O.R. has already been published on 24th July, 2013 and the village has already been published under Section 41(1) of the Act with effect from 19th February, 2016. Neither the order passed in Revision Case No.4520 of 2001 nor the subsequent proceeding pursuant to that was ever challenged before any Court of law and the final R.O.R. to the satisfaction of most of the villagers has been published. Some of the Petitioners, who have also participated in the village committee meeting, are now raising objection with regard to carving of Chaka, which is not sustainable. In view of the facts and circumstances of the case, the writ petition is not maintainable and is liable to be dismissed.

6. Upon hearing learned counsel for the parties and on perusal of the materials available on record, it appears that pursuant to the order passed in Revision Petition No.4520 of 2001, the consolidation operation started *de novo* from the stage of Section 13(1) of the Act and final R.O.R. has already been published under Section 22(2) of the Act on 24th July, 2013. Although the Revision Petition No.4520 of 2001 was initiated after publication of the final R.O.R. under

Section 22(2) of the Act on 17th January, 1984, but pursuant to the said direction, a *de novo* exercise was undertaken by the Consolidation Officer and final R.O.R. has already been published on 24th July, 2013. The village has also been published under Section 41(1) of the Act since 19th February, 2016. Neither the order passed in Revision Petition No. 4520 of 2001 nor the subsequent proceeding undertaken in pursuance thereof was challenged. The consolidation operation is a time bound programme. Only because the Petitioners are not satisfied with the carving of Chaka, the same cannot be a ground to interfere with the consolidation operation, unless the Petitioners make out a case in that regard. Thus, the Director, Consolidation, Odisha, Cuttack has committed no error in dismissing the revision without entertaining the same as he had no jurisdiction to entertain a revision after publication of the R.O.R.. Further, in order to give a quietus to the publication of the R.O.R. and maintain its sanctity, this Court is not inclined to entertain the writ petition. Accordingly, this writ petition being devoid of any merit stands dismissed.

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

(K.R. Mohapatra)
Judge

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