

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.8394 of 2022

Ahalya Mohapatra & others **Petitioners**

*Mr. S.K. Mishra,
Advocate*

-versus-

State of Odisha & others **Opp. Parties**

*Mr. H.M. Dhal,
Additional Government Advocate*

*Mr. Mr. A.K. Nath, Advocate
(For opposite party Nos.2 & 4)*

*Mr. G. Mishra, Advocate
(For opposite party Nos.3 & 9)*

CORAM:
JUSTICE BISWAJIT MOHANTY
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
19.04.2022

Order No.

- 04.
1. This matter is taken up through video conferencing mode.
 2. Mr. G. Mishra, learned counsel and his associates have entered appearance on behalf of opposite party Nos.3 & 9 by filing a Vakalatnama in Court today. The same is accepted and taken on record.
 3. Heard Mr. S.K. Mishra, learned counsel for the petitioners, Mr. H.M. Dhal, learned Additional Government Advocate, Mr. A.K. Nath, learned counsel for opposite party Nos.2 & 4 and Mr. G. Mishra, learned counsel for opposite party Nos.3 & 9.
 4. According to Mr. Mishra, the petitioners are aggrieved by

the arbitrary fixation of valuation of the case land at Rs.4,00,00,000/- per acre under Annexure-5 by opposite party Nos.3, 4 & 6 to 12. According to him, though this Court vide order dated 22.02.2022 passed in W.P.(C) No.6486 of 2010 directed the opposite parties therein to communicate the petitioners therein with the present market value of the land in question however, there is nothing to show in Annexure-5 that Rs.4,00,00,000/- has been assessed as the present market value. He further submits that though Sub-Registrar, Odagaon who was a party to the proceeding had indicated the present bench mark value of the case land to be of 1,80,00,000/- and though the District Valuation Committee indicated the enhanced valuation to be of Rs.2,20,00,000/- per acre with effect from 01.04.2022 however, without assigning any reason, the Members of the Committee consisting of the above noted persons arbitrarily arrived at a conclusion that the valuation of the case land is to be fixed at Rs.4,00,00,000/- per acre. In this context, Mr. Mishra, relies on Annexure-4 dated 19.02.2022 as per which the Sub-Collector-cum-Executive Officer, Nayagarh, who is the opposite party No.3 in the present case had directed one Suresh Mohapatra to deposit Rs.50,000/- for allotting debottar land covering an area of Ac.0.02 decimals in village Odagaon towards security money in respect of that land. He also relies upon the sale deeds executed on 09.03.2022 & 18.02.2022 under Annexure-6 series to submit that the land covered by these sales deeds are adjacent to the lands involved in this case and the consideration money quoted therein indicate much less present market value, which should have been taken into account while passing the impugned order at Annexure-5. Apart from the fact that no reason has been given for taking such a decision, there is also no whisper that such valuation indicates the present market value, which was required to be communicated as per the order of this Court passed in the earlier writ petition as indicated above.

5. Mr. G. Mishra, learned counsel for opposite party Nos.3 & 9 strongly defends the impugned order under Annexure-5 and submits that no illegality has been committed by the Committee in taking such a decision.

6. Despite service of notice on opposite party Nos.8, 9, 10 & 12, they have chosen not to appear. Since Office note indicates that the notice issued to opposite party Nos.11 was received by his brother in his absence, we consider service to be sufficient vis-a-vis opposite party No.11, who has also chosen not to appear.

7. Having heard learned counsel for the parties and after perusing the records, it is clear that as rightly contended by Mr. Mishra, learned counsel for the petitioners that no reason has been assigned by the Committee for reaching the figure of Rs.4,00,00,000/- per acre when the District Valuation Committee had suggested enhanced valuation at Rs.2,20,00,000/- per acre. Apart from that, the impugned order at Annexure-5 also does not show that the valuation which was ultimately decided by the Committee to be the present market value vis-à-vis the land involved in this case. Lastly, it may be noted that this Court had directed the opposite parties in W.P.(C) No.6486 of 2010 to calculate the amount on the basis of the present market value vis-à-vis the land in question. In the instant case, there is nothing on record to show that such an exercise has been undertaken by those opposite parties, who are opposite party Nos.1 to 5 in the present writ petition. On account of all these reasons, the decision taken by the Committee at Annexure-5 on 08.03.2022 being the result of an arbitrary exercise of power, is legally untenable. Accordingly, the same is set aside. In tune with the earlier order of this Court, the opposite party Nos.1 to 5 are directed to take a decision in accordance with law with regard to the present market value of the lands involved in this case by 22.04.2022 and communicate the same to petitioner No.20 on the very same day, who in turn

is directed to share such information with the other petitioners so that they can make payments by 25.04.2022 as directed earlier.

8. Urgent certified copy of this order be granted on proper application in course of the day.

9. Free copies of this order be handed over to Mr. H.M. Dhal, learned Additional Government Advocate and Mr. A.K. Nath, learned counsel for opposite party Nos.2 & 4 in course of the day for onward transmission and compliance.

(Biswajit Mohanty)
Judge

(Biraja Prasanna Satapathy)
Judge



Prasant