

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 581 of 2012

Mohan Charan Prusty

....

Petitioner

Ms. Pami Rath, Advocate

-versus-

***Additional District Magistrate,
Bhubaneswar and another***

....

Opposite Parties

Mr. Debakanta Mohanty, AGA

CORAM:

THE CHIEF JUSTICE

JUSTICE R. K. PATTANAİK

ORDER

27.06.2022

Order No.

05. 1. The challenge in the present petition is to an order dated 28th January 1985, passed by the Additional District Magistrate, Bhubaneswar in Lease Revision Case No.331 of 1983. The operative portion of the said order reads as under:

“Hence in view of the facts mentioned above I come to the conclusion the settlement of the Govt. land in favour of the O.P. suffers material irregularities in the procedure as well as legal infirmities.

Therefore the order of sanction of lease in favour of Dasa Sethi out of Khata No.62 Plot No.101 area Ac 0.200 Mouza-Subudhipur is hereby set-aside. The learned Tahasildar is directed to take over possession of the land and correct the R.O.R. and other records.”

2. While directing notice to issue in the present petition on 27th February, 2012, this Court ordered status quo to be maintained.

3. The very basis of the present application by the Petitioner is that he had purchased the land in question from one Shi Dasa Sethi by a Registered Sale Deed dated 5th June, 1985. It is on the basis that the impugned order of the ADM cancels the lease of the said plot, that the present petition has been filed challenging that order. Admittedly the impugned order is dated 28th January, 1985 i.e., more than five months prior to the Registered Sale Deed.

4. During the course of the argument, Ms. Pami Rath, learned counsel for the Petitioner was candid that the Petitioner's vendor did not disclose to the Petitioner the fact that the aforementioned order dated 28th January, 1985 had been passed cancelling the lease in favour of the Petitioner's vendor in Leave Revision Case No.331 of 1983. It is only subsequently when the Petitioner sought to mutate the land in his favour that he was informed that the lease already stood cancelled. This is therefore a classic case of the Petitioner having been misled by his vendor into buying property on the promise of a good title when the vendor fully well knew that the lease stood cancelled. In fact the vendor participated in Lease Revision Case No.331 of 1983 and after hearing him the order dated 28th January, 1985 was passed. Therefore, on the date that the Registered Sale Deed executed by the vendor in favour of the Petitioner, the vendor ceased to have any valid title whatsoever. The Sale Deed was actually null and void.

5. To overcome the legal effect of the above transaction, an argument was sought to be constructed before the Court today by Ms. Pami Rath that going by the particulars mentioned in the order

of the ADM the plot numbers and khata numbers did not match and therefore the order dated 28th January, 1985 in fact did not pertain to the land in question.

6. Mr. Debakanta Mohanty, learned Additional Government Advocate, however, joined issue on this submission and pointed out that if in fact the impugned order had nothing to do with the Petitioner's plot, there is no question of the Petitioner being aggrieved by that order and seeking its quashing.

7. Ms. Rath, learned counsel for the Petitioner then referred to W.S. Lease Case No.2372 of 1974 which finds mentioned in the order dated 28th January, 1985 and sought to submit that even before the said lease case was initiated, a Patta had been in fact issued in favour of the Petitioner's vendor and therefore he had valid title.

8. The fact remains that the Petitioner is in fact aggrieved by the order dated 28th January, 1985 because admittedly that order does pertain to the property which has been sold to the Petitioner. Otherwise there was no need for the Petitioner to seek quashing of the said order in the present writ petition. The fact of the matter is that there is no other prayer in the writ petition. The only prayer is for quashing of the order dated 28th January, 1985.

9. If the Petitioner is so confident that the order dated 28th January, 1985 has nothing to do with the Petitioner's property, then there is no question of this Court, at the instance of the Petitioner, quashing that order. The remedy for the Petitioner, however, would be to seek damages from his vendor for misleading the Petitioner into

purchasing a property over which the Petitioner's vendor had no valid title on the date of the sale of the property.

10. The writ petition is dismissed in the above terms. The status quo order stands vacated.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

S. Behera

