

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.266 of 2017

Smt. Basantilata Behera

Appellant

Mr. S. Patnaik, Advocate

-versus-

Bhaskar Jena and others

Respondents

Mr. D.K. Mohanty, AGA for Respondent Nos.2 to 4

CORAM:

THE CHIEF JUSTICE

JUSTICE CHITTARANJAN DASH

Order No.

ORDER

12.10.2022

02.

1. The challenge in this appeal is to an order dated 20th July, 2017 passed by the learned Single Judge disposing of W.P.(C) No.10313 of 2007 filed by Respondent No.1 in which an order dated 18th August, 2005 passed by the Sub Collector, Bhadrak in OLR Appeal No.2 of 2006 and an order dated 23rd June, 2007 passed by the Collector, Bhadrak in OLR Revision Case No.1 of 2006 were challenged.

2. Having heard learned counsel for the Appellant and having perused the impugned order of the learned Single Judge, the Court is of the view that it does not call for interference. It is seen that the learned Single Judge was of the view that while considering an application for permission under Section 22 of the Orissa Land Reforms Act (OLR Act) “there should have been a proper enquiry in the locality particularly looking to the existence of claim of the persons belonging to the same caste already there in the first round of litigation involving the same property before the same authority.” The learned Single Judge was also view that the appellate authority

instead of dismissing the appeal should have stopped his hand and left the matter to be decided by the Sub-Collector. Accordingly, the learned Single Judge has restored OLR Case No.109 of 2005 before the Sub Collector leaving it open to all the parties to raise their respective contentions. It has been clarified that the sale transaction that has taken place in the meanwhile shall abide by the outcome of the proceeding under Section 22 of the OLR Act.

3. The Court is unable to find any error in the impugned order of the learned Single Judge which calls for interference. In view of the submission of learned counsel for the Appellant that the proceeding before the Sub Collector has not progressed on account of the pendency of the present writ appeal, it is directed that the parties will appear before the Sub Collector where the case will be listed for directions on 28th November, 2022. The Sub Collector is requested to dispose of the matter in accordance with law after hearing the parties within a period of three months thereafter.

4. The writ appeal is disposed of in the above terms.

(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge