

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.3916 of 2010

Surendra Nath Sahu

....

Petitioner

Mr.S.K.Samantaray, Advocate

-versus-

State of Odisha and Others

....

Opp. Parties

Mr. D.K.Mohanty, AGA

CORAM:

THE CHIEF JUSTICE

JUSTICE R.K.PATTANAİK

ORDER

09.03.2022

Order No.

10.

1. The challenge in the present petition is to an order dated 18th January, 1985 passed by the Additional District Magistrate, (ADM) Bhubaneswar in Lease Revision Case No. 147 of 1983. By the impugned order, in exercise suo motu powers under the OGLS Act, 1962, the ADM, Bhubaneswar cancelled the lease in favour of the Petitioner of land out of Khata No.443, Plot No. 1215, Area 0.100 decimal, Mouza- Ghatikia.

2. The main plank of the submission of the counsel for the Petitioner is that impugned order has been passed without affording the Petitioner an opportunity of being heard. As regards the delay in filing the present petition is sought to be explained that when on 21st October, 2009 the Petitioner approached the ADM to get the ROR corrected, he was surprised to know that the lease had been cancelled in the aforementioned case.

3. According to the Petitioner he had not been served either the order of cancellation or any notice for implementation of that order.

4. Having heard learned counsel for the parties, the Court finds that the impugned order does not call for interference. It refers to the fact that a show cause notice was issued to the Petitioner in the revision case and in fact the Petitioner submitted his reply on 17th December, 1983. Therefore, this is not a case where no notice was issued to the Petitioner.

5. Having received the notice and having filed a reply, it was incumbent on the Petitioner to have followed up the proceedings and ascertained to outcome thereof. Therefore, the Court is not prepared to accept the explanation offered by the Petitioner that he was not given sufficient opportunity and that he was surprised on 21st October, 2009 when he approached the Settlement Office for change of ROR to learn about the above order. Consequently, the inordinate delay of nearly 35 years, in challenging the impugned order is not satisfactorily explained.

6. Apart from the issue of inordinate delay and laches in preferring the writ petition, the Court on merits also finds that no case was able to be made out by the Petitioner. Importantly, it was found by the ADM that no inquiry was conducted to ascertain whether the Petitioner was landless and had no means of livelihood, in order to make him eligible for settlement of land in his favour. There was, therefore, a clear violation of Section 3(3) of the OGLS Act in granting the lease of the land in question in his favour.

7. Consequently, the Court finds no reason to interfere with the impugned order of the ADM.

8. The writ petition is dismissed. The interim order stands vacated.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge



Tudu/Kabita