

IN THE HIGH COURT OF ORISSA AT CUTTACK

O.J.C. No. 8131 of 1997

Maguni Nayak and Another

Petitioners

Mr. B. Panigrahi, Advocate

-versus-

Ramesh Chandra Panda and Others

Opposite Parties

Mr. Debakanta Mohanty, Addl. Govt. Advocate

Mr. Anam Charan Panda, Advocate

Ms. Baijayanti Mohanty, Advocate

Mr. B. Jalli, Advocate

**CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAİK**

Order No.

**ORDER
15.03.2022**

19. 1. This is the second round of litigation concerning the land in village Kamaladeipur, Khalikote Tahasil Ganjam District arising under the Odisha Estates Abolition Act (OEA Act).

2. In the first round, against the order dated 7th March, 1981 of the Appellate Court in OE Appeal No.11 of 1979 and 13 of 1980 Sri Maguni Nayak filed OJC No.700 of 1981 in this Court. By order dated 17th April, 1989 this Court directed that the OEA Collector should dispose of OEA Case No.699 of 1977 instituted on the application filed by Ananda Behera Ratna under Sections 6 and 7 of the OEA Act in accordance with law. The High Court further observed that depending on the result of the aforementioned proceedings, the settlement of the case land with the writ

Petitioners will be taken up. In other words, if the application under Section 6 and 7 of the OEA Act for settlement of the land with the intermediary or anyone claiming through him succeeded then the question of settling the very same property in favour of the writ Petitioners would not arise. If the aforementioned application was rejected then the writ petitioners' claim would be considered in accordance with law.

3. When the case went back to the OEA Collector, Khallikote, the first impugned order dated 18th March, 1982 was passed settling the land in favour of Ramesh Chandra Panda, Durmila Kumari Panda (Opposite Party Nos.1 and 2 herein).

4. Learned counsel for the Petitioner points out that even at the stage of the appeal filed against the said order, the Petitioners had raised the issue of determination of excess lands in terms of the Odisha Land Reforms Act, 1960 (OLR Act). This was in fact noted in the order of the OEA Collector by observing as under:

“O.L.R. Case No.22/74 was instituted u/s 42 of the O.L.R. Act on 5.4.74. The case was finally dropped on 30.11.76 on the ground that the land-holders in the case namely Ananda Behera Ratna, Brundaban Sahu, Sahadeva Sahu, Dandapani Sahu, Prafulla Kumar Sahu and Purushottam Behera Ratna have got their lands partitioned by Registered deed No.710 dt. 4.4.64. The share of each of the land holder being within the ceiling limit the case was dropped. However, the case has been re-opened after review by the O.S.D. (L.R.), Chhatrapur. The case is under enquiry. Any land found to be in excess of the ceiling limit at all shall be vested to the State free from encumbrances as per provisions

of law. Hence the proceedings u/s 42 of the O.L.R. Act may not vitiate the present proceedings under the O.E.A. Act.”

5. However, despite noticing the above issue, the OEA Collector did not in the final analysis, account for it and proceeded to pass an order settling the lands as indicated hereinbefore. Learned counsel for the Petitioners points out that the above point was raised both before the 1st Appellate Forum i.e. the Sub-Collector, Chhatrapur and thereafter before the ADM, Ganjam but was not dealt with.

6. Indeed, if under the OLR Act certain lands are found to be in excess and already vested in the State, the question of settling those lands in favour of individuals would not arise. It is imperative, therefore, for the authorities exercising powers under the OEA Act to await the outcome of the proceedings under the OLR Act.

7. On the above short ground, the impugned order dated 11th March, 1997 of the ADM, Ganjam and the corresponding order dated 28th April, 1993 of the Sub-Collector, Chhatrapur are hereby set aside and the appeal before the Sub-Collector being OEA No.5 of 1992 by the present Petitioners is revived. The said OEA No.5 of 1992 will now be listed before the Sub-Collector, Chhatrapur for directions on 4th April, 2022.

8. The interveners who have filed Misc. Case No.7092 of 1997 and I.A. No.136 of 2019 and I.A. No.22 of 2021 are permitted to appear before the Sub-Collector, Chhatrapur on the aforesaid date

and make their submissions. Till the disposal of the appeal by the Sub-Collector, the status quo as of today shall be maintained.

9. The writ petition is disposed of in the above terms.

10. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

S.K. Jena/P.A.

