

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.17536 of 2010

Suryamani Sahoo

.... ***Petitioner(s)***

Mr. B.K. Biswal,
Advocate

-versus-

Saroj Ranjan Pradhan & Ors.

.... ***Opposite Party(s)***

Mr. L. Mishra,
Advocate O.Ps.1 & 2

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
21.12.2022**

Order No.

09.

1. Heard the submissions of respective counsel.
2. This Writ Petition involves a challenge to the order of the revisional authority at Annexure-4. It appears, though the revision has been decided on merit, but however, without involvement of the Petitioner and in reversal of two lower authorities order.
3. Learned counsel for Petitioner while admitting the Petitioner's absence in the revisional proceeding, however submits that had the Petitioner been involved in the proceeding, he would have been in a position to satisfy his case in terms of the observation already made in two lower court proceedings.
4. Learned Counsel for Opposite Party Nos.1 & 2 in his objection to the submission made by the learned counsel for Petitioner, taking this Court to the observation of the revisional authority submitted that the present Petitioner was defaulted to appear in the proceeding in spite of seven consecutive dates and after due service of notice.

5. Considering the rival contentions of the parties, this Court from the reasons assigned in the revisional order finds, it is a fact that the Petitioner did not appear and participate in the hearing of the proceeding even after seven consecutive adjournments and after due service of notice. At this stage this Court finds, the Petitioner is enjoying an order of stay of the impugned order since 6.12.2011. Even though much stress is given to the discussion and finding arrived at by the revisional authority, by the learned counsel for Opposite Party Nos.1 & 2, however for the nature of disposal of the revision remaining *ex parte* and such disposal might have been occurred due to deliberate non-cooperation of the Petitioner, this Court observes, since the dispute involves a land right of one of the party, such matter should be disposed of with the involvement of the party likely to be affected i.e. the Petitioner herein.

In the circumstance, this Court interfering in the *ex parte* order at Annexure-4, sets aside the same and remits the matter to the Revisional authority for re-adjudication of the OLR Revision Case No.4 of 2004 with the involvement of all the parties. At the same time keeping in view the sufferings of the private Opposite Parties for no fault of them and for the deliberate inaction of the Petitioner, this Court while remanding the matter also assesses the cost to a sum of Rs.10,000/- (rupees ten thousand only) to be paid to the private Opposite Parties in the Court below on the date of appearance of the parties itself.

6. This Court fixes the date of appearance of both the parties involved herein before the revisional Court on 10th January, 2023. In the event the Petitioner produces copy of this order along with receipt showing payment of cost before the authority, the revision vide OLR Revision Case No.4 of 2004 will be revived and re-disposed of in

accordance with law and also with the involvement of the parties within a period of three months thereafter, but however, without being influenced by the observation already made in the impugned order. This Court makes it clear that this Court has not expressed any opinion on the merits of the case.

7. The Writ Petition stands disposed of with the above order.

(Biswanath Rath)
Judge

Ayaskanta Jena

