

IN THE HIGH COURT OF ORISSA AT CUTTACK

RVWPET No.88 of 2022

Padmalochan Sahoo ***Petitioner***

Mr. Sidheswar Mallick, Advocate

-versus-

***Collector-cum-D.M., Balasore and
others*** ***Opp. Parties***

Mr. Dillip Kumar Mishra,
Additional Government Advocate
(For Opposite Party Nos. 1 to 3)

Mr. A. Ch. Behera, Advocate
(For Opposite Party Nos.4 and 5)

**CORAM:
JUSTICE K.R. MOHAPATRA**

**ORDER
13.07.2022**

Order No.

5. 1. This matter is taken up through Hybrid mode.
2. Thi Petition has been filed for review of order dated 8th
 February, 2022 by which writ petition in W.P.(C) No.41770 of
 2021 was disposed of.
3. Mr. Mallick, learned counsel for the review Petitioner
 submits that the aforesaid order is an outcome of suppression of
 material fact. The writ Petitioners (Opposite Party Nos.4 and 5
 herein) at the time of adjudication of the writ petition, had
 suppressed the order passed by the Tahasildar, Khairia on 14th
 December, 2021 (Annexure-1), which reads as under:-

“This case record is put up today. As per notice all parties are present and submit hazira. The opposite party i.e. Sri Padmalochan Sahu, S/o-Gananath Sahu of vill-Garasankha, Ps-Simulia, Dist-Balasore has submitted a plaint copy and stated that he has filed a CP Case No.232/121/2021 before Joint commissioner, Survey Settlement and O.C.H. PFL Act, Balasore vide CP No.232/12/2021 which was filed on dated 20/11/2021. As per the Letter of the R&DM Department, Govt. of Odisha vide Letter NO-SM 117/2016 No.-38869/R&DM, Dt-

13/12/2016, it is not justify to demarcate the scheduled land as there is a civil case pending before the Hon'ble Court of Joint Commissioner, Survey Settlement and O.C.H. PFL Act, Balasore vide CP No-232/121/2021. In this connection issue a letter to the IIC Simulia, PS and requested to take necessary steps to watch the situation on the above scheduled land and for avoiding any un-toward situation if so warranted & also issue a letter to Joint Commissioner Survey Settlement and O.C.H. PFL Act, Balasore to intimate the present status of the case bearing CP No-232/121/2021 if filed before the Hon'ble Court by Sri Padmalochan Sahoo.

Put up on the next date of hearing n receipt of letter from Joint Commissioner Survey Settlement, Balasore."

The order clearly shows that due to pendency of Consolidation Revision, i.e., CP No.232/121/2021 in the Court of Joint Commissioner Settlement and Consolidation, Balasore, the Tahasildar, Khaira observed that it would not be justified to demarcate the schedule land. He, accordingly directed to issue letter to IIC, Simulia PS and requested to take necessary steps to avoid any untoward situation if warranted. He also instructed to issue letter to the office of the Joint Commissioner, Settlement and Consolidation, Balasore to intimate the status of the said revision petition. Although this fact was within the knowledge of the writ petitioners, they filed the writ petition suppressing the same, as a result of which, the order sought to be reviewed, was passed. Hence, he prays for recall of the impugned order.

4. Mr. Behera, learned counsel for Opposite Party Nos.4 and 5 (writ petitioners) submits that they had no knowledge about pendency of the revision case as they were not noticed in the said revision. They only came to know about the same from the averments made in the review petition. It is also submitted that they had no knowledge about the order dated 14th February,

2021. Hence, the writ Petitioners had not intentionally suppressed any material fact, as alleged in the present review petition. He, therefore, prays for dismissal of the review petition.

5. Mr. Mishra, learned Additional Government Advocate submits that the writ Petitioners had participated in the demarcation proceeding and they were present on 14th December, 2021 (Annexure-1), when the above quoted order was passed.

6. Heard learned counsel for the parties; perused the materials on record.

6.1 On perusal of the case record, it appears that vide order dated 7th December, 2021 under Annexure-1 passed in Land Identification Case No.50 of 2021, the Tahasildar, Khairia directed the parties to remain present on 14th December, 2021. From the averments made in the writ petition and also from the recitals of order dated 14th December, 2021 itself, it is clear that Petitioners had knowledge about the order dated 14th December, 2021. The writ Petitioners categorically averred in paragraph-11 of the writ petition that they were present on 14th December, 2021 and produced documents in support of their case. But no step for demarcation of the land was taken in spite of their repeated requests.

6.2 Mr. Behera, learned counsel for the Opposite Parties, who was also learned counsel for the Petitioners in the writ petition, however, submits that the writ Petitioners had no knowledge about order dated 14th December, 2021. Such a contention is not acceptable in view of the fact that the parties were directed to be present on 14th December, 2021, which was within the knowledge of the writ Petitioners. It is also clear from

the averments made in para-11 of the writ petition, as discussed above. In that view of the matter, there can be no iota of doubt that the writ petition was filed by suppressing material facts with an intention to mislead this Court. Hence, the order dated 8th February, 2022 passed in W.P.(C) No.41770 of 2021 is recalled and the writ petition stands dismissed. Any order passed and/or action taken pursuant to the order dated 8th February, 2022 passed in W.P.(C) No.41770 of 2021 is/are also set aside.

7. As the writ petition was filed by suppressing the material fact and by misleading this Court the writ Petitioners managed to get the order in their favour, they are liable to pay a cost of Rs.20,000/- (rupees twenty thousand only) to the Government exchequer, which shall be deposited within a period of fifteen days hence. If the cost is not paid within the time stipulated above, the Tahasildar, Khairra shall take action against the Opposite Party Nos.4 and 5 herein under the Odisha Public Demands Recovery Act, 1962 to recover and deposit the same in the Government exchequer.

8. The Review Petition is allowed accordingly.

9. Interim order dated 27th April, 2022 passed in IA No.108 of 2022 stands vacated.

A free copy of this order shall be made over to Mr. Mishra, learned AGA for communication and compliance.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge