

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 8586 of 2003

Ugrasen Sethi and others

.... Petitioners

Mr. B.B. Mishra, Advocate

-versus-

State of Orissa and others

.... Opposite Parties

Mr. Debakanta Mohanty

Additional Government Advocate

CORAM:

THE CHIEF JUSTICE

JUSTICE M.S. RAMAN

ORDER

19.12.2022

Order No.

- 14.
1. This writ petition is restored vide order passed today in CMAPL No.320 of 2017.
 2. The prayer in the present writ petition is that an order dated 30th April, 2003 passed by the Additional District Magistrate (ADM), Sonepur in O.G.L.S. Revision No.2 of 2003 should be quashed.
 3. While issuing notice in the present petition way back on 4th October, 2004 status quo was asked to be maintained by this Court.
 4. In response to the petition, it has been averred in Para-7 of the counter affidavit as under:

“That in reply to the averments made in paragraph 3 of the writ petition it is humbly submitted that it is a fact that, the Tahasildar, Biramaharajpur conducting due enquiry through the Revenue Inspector, Ufula settled Ac. 0.040 of ceiling surplus land against the petitioner Ugrasen Sethi, Syudarsan Sethi, Akshaya Ku. Sethi and Basana Ku. Sethi, which was found to be sketchy, and not compressive who has not enquired into the lease application filed by the petitioners diligently. The R.I. has not reported regarding the land held by the petitioners for

their family members to ascertain the genuineness of the petitioners to be settled with the Government land for homestead purpose. Further, the R.I has not reported whether the land is free from encumbrances or not which is a vital point to be looked into before settlement/allotment of the land in the lease cases which amounts to misrepresentation of fact by suppression of the real fact. But, as the report of the Revenue Supervisor duly forwarded by the Tahasildar, Biramaharajpur vide Letter No.506 dated 07.03.2003 enclosing Original Lease Case Record No.97/2000, 96/2000, 95/2000 and 98/2000 it was revealed that, one Kumar Taria, S/o- Late Bhukulu Taria is in physical possession of lease land after the death of his father Late Bhukulu Taria, who had been allotted with land by the Tahasildar Biramaharajpur during the year, 1977 vide Grama Sava Lease Case No.279-285/77 as observed by the Addl. District Magistrate, Subarnapur in his order dated 30.04.2003. For better appreciation copy of the order dated 30.4.2003 is annexed herewith as Annexure-C/2 for kind perusal of the Hon'ble Court.”

5. There has been no rejoinder filed to contradict any of the above averments in the counter affidavit till date.

6. Learned counsel appearing for the Petitioner seeks to assert that the Petitioners are in possession. However, this only gives rise to a dispute to the question of fact which in any event cannot be examined in the present writ petition.

7. Consequently, this Court is not inclined to entertain the present writ petition and it is accordingly dismissed.

(Dr. S. Muralidhar)
Chief Justice

(M.S. Raman)
Judge

S. Behera