

IN THE HIGH COURT OF ORISSA AT UTTACK
RVWPET No. 4 OF 2014

Jagannath Jena **Petitioner**

Mr. Soumya Mishra, Advocate

-versus-

Arjuna Chandra Jena **Opp. Parties**

Mr. Ramakanta Mohanty,
Senior Advocate
(for Opp. Party Nos.1 to 4)

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
04.04.2022

Order No.

7. 1. This matter is taken up through hybrid mode.
2. This is an application for review of order dated 21st September, 2013 passed in W.P.(C) No.16183 of 2005, by which the writ petition was disposed of.
3. Mr. Mishra, learned counsel for the review Petitioner submits that although the Petitioner was made party to the writ application as Opposite Party No. 5 and vide order dated 19th September, 2006 notices were directed to be issued to Opposite Party Nos.4 and 5 by registered post with A.D., but no notice was ever served on the review Petitioner for which he could not defend his case in W.P.(C) No.16183 of 2005. The proceeding in the writ application without valid service of notice on the contesting Opposite Party No.5 therein (review Petitioner) is an error apparent on the face of record and amounts to flagrant miscarriage of justice. Hence, the order dated 21st September, 2013 passed in W.P.(C) No.16183 of 2005 requires to be recalled and the matter should be heard on merit.
4. Mr. Mohanty, learned Senior Advocate appearing for the Opposite Party Nos.1 to 4 (the writ Petitioners) submits that even if the

order passed in W.P.(C) No.16183 of 2005 is recalled and the matter is heard afresh, the Petitioner will not get any benefit, as the order impugned therein was passed by the Director of Consolidation under Section 37(2) of the Odisha Consolidation of Holdings and Prevention of Fragmentation of Land Act, 1972 (for short 'the Act'), after publication of final R.O.R. under Section 22(2) of the said Act, which was without jurisdiction and hence, the same was struck down. As such, the order dated 21st September, 2013 passed in W.P.(C) No.16183 of 2005 is not an outcome of apparent error on the face of the record. As such, the same need not be recalled.

5. On perusal of record of the writ petition, it is apparent that although notice was directed to be issued to the review Petitioner (Opposite Party No.5 in the writ petition) vide order dated 19th September, 2016, but there is no material on record of the writ petition to show that such notice was, in fact, served on him. It further appears that the order impugned in W.P.(C) No.16183 of 2005 was passed by the Director, Consolidation in R.P. Case No. 4550 of 2004 filed by the Opposite Party Nos.4 to the writ petition along with the Review Petitioner, who was Opposite Party No.5 in the writ petition. Thus, the Review Petitioner has a right to be heard in the writ petition. Hence, there is force in the submission of Mr. Mishra, learned counsel for the Review Petitioner.

6. Accordingly, order dated 21st September, 2013 passed in W.P.(C) No.16183 of 2005 is recalled and the review petition is allowed.

(K.R.Mohapatra)
Judge