

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 10259 OF 2022

Janakiprava Mallick

....

Petitioner

Mr. Satyabadi Mantry, Advocate

-versus-

State of Odisha and another

....

Opp. Parties

Mr. Swayambhu Mishra,
Additional Standing Counsel

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

**ORDER
22.11.2022**

Order No.

3. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition seeks for a direction to set aside the ROR in respect of Khata No. 190 (Annexure-4) situated in Mouza Debendrapur in the district of Mayurbhanj.
3. Mr. Mantry, learned counsel for the Petitioner submits that the land in question was settled in favour of the vendors of the Petitioner in an OEA proceeding. The Petitioner purchased the case land from the vendors vide Registered Sale Deed dated 4th April, 1989. The land has also been mutated in his name and the ROR has been corrected accordingly (Annexure-3). When the matter stood thus, the Collector, Mayurbhanj at Baripada initiated a *suo motu* proceeding and by condoning the delay of more than twenty years, remitted the matter to Tahasildar, Baripada for a fresh adjudication and to take a final decision. Assailing the same, the recorded tenants namely, the vendors of the Petitioner moved this Court in OJC Nos. 1708 and 1234 of 1995, which were disposed of vide order dated 26th February, 2004 by setting aside the order passed by the Collector,

Mayurbhanj at Baripada and directing the State Government to move the appropriate forum for correction of the R.O.R.. Accordingly, the Collector, Mayurbhanj at Baripada moved the Board of Revenue under Section 38-B of Orissa Estate Abolition Act, 1951. The said revision was dropped as not maintainable giving liberty to the Collector, Mayurbhanj at Baripada to file an application under Section 15 of the Orissa Survey and Settlement Act, 1958.

4. Accordingly, the Collector, Mayurbhanj filed R.P. No. 7 of 2006. The Revenue Divisional Commissioner (Central Division), Cuttack, allowed the revision filed under Section 15(a) of the Orissa Survey and Settlement Act, 1958 without condoning the delay and directed Tahasildar, Baripada to verify all relevant records afresh by making enquiry about feasibility of the orders passed in OEA cases. The said order was challenged by one of the purchaser in W.P.(C) No. 7119 of 2008, which was disposed of vide order dated 4th February, 2021 with the following direction:

9. The Writ Petition is accordingly allowed and the matter is remitted back to the Revenue Divisional Commissioner (Central Division), Cuttack (O.P. No.1) to adjudicate R.P. No. 7 of 2006 afresh in accordance with law giving opportunity of hearing to the parties concerned and by passing a reasoned order.

9.1. Needless to mention here that before delving into merits of the revision petition, the RDC (Central Division), Cuttack shall consider the issue of condonation of delay.

The matter is still pending with the Revenue Divisional Commissioner (Central Division), Cuttack. Although the Petitioner are *bona fide* purchasers of the case land and the mutation ROR has already corrected in their name, but they

were not given any opportunity of hearing in the said revision.

5. Mr. Mantry, learned counsel for the Petitioner further submits that although the direction with regard to publication of R.O.R. has already been set aside, but till date the settlement of R.O.R. stands in the name of Government. Thus, there appears a confusion with regard two R.O.Rs., one of which in the name of the Petitioner and the other in the name of the State Government in respect of the self same property and the Tahasildar, Baripada is not accepting rent in respect of the case land from the Petitioner. In that view of the matter, he has filed this writ petition with a prayer to set aside the R.O.R. under Annexure-4, which has already lost its force by virtue of direction of this Court.

6. Mr. Mishra, learned Additional Standing Counsel submits that since the matter is pending before the Revenue Divisional Commissioner (Central Division), Cuttack, the Petitioner may file an application to be impleaded as party to the said R.P case and contest the same. The R.O.R. published in the name of the Government under Annexure-4 will be subject to the result of the revision petition pending before the Revenue Divisional Commissioner. Hence, the prayer made in this writ petition is misconceived and cannot be entertained.

7. Considering the rival contentions of the parties and on perusal of the record, it appears that the Petitioner alleges that the R.O.R. has already been corrected his name as per (Annexure-3) by virtue of his purchase from rightful owner. However, pursuant to the direction of Collector, Mayurbhanj, the R.O.R. was corrected in the name of the Government as per Annexure-4. Although, the direction to correct the R.O.R.

has already been set aside by this Court, the R.O.R. still stands in the name of the Government. The R.O.R. published under Annexure-4 is subject to the result of the R.P No. 7 of 2006 pending before the Revenue Divisional Commissioner (Central Division), Cuttack. Since the Petitioner is not made party to the said revision and her right is likely to be affected, she should approach the Divisional Court to be impleaded as party and context the case.

9. In that view of the matter, the writ petition is disposed of with a direction that in the event, the Petitioner files an application to be impleaded as a party to R.P. No. 7 of 2006 pending before the Revenue Divisional Commissioner (Central Division), Cuttack within a period of two weeks hence, he shall do well to consider the same giving an opportunity to the Petitioner to contest the case. The R.O.R. published under Annexure-4 shall be subject to the result of the R.P. No. 7 of 2006.

10. With the aforesaid observation, this writ petition is disposed of.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge