

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C). No.11169 of 2008

Banchhanidhi Paty & Ors.

....

Petitioner(s)

Mr.S.K.Dash, Advocate

-versus-

Ranjan Kumar Mishra & Ors.

....

Opp.Party(s)

Mr.D.K.Sahoo-1, Adv.

Mr.S.P.Panda, AGA

CORAM:

JUSTICE BISWANATH RATH

ORDER

02.12.2022

Order

No.

9.

1. Heard learned counsel appearing for the parties.
2. This writ petition involves the following prayer:

“It is therefore prayed by the petitioners that this Hon’ble Court may graciously be pleased to admit the writ application, call upon the opposite parties to show cause as to why the impugned orders under Annexures:4 and 6 to the writ application shall not be quashed and on their failure to show cause or showing insufficient cause, may be pleased to quash those impugned orders under Annexures: 4 and 6 to the writ application and may also be pleased to pass such other or further order(s), writ(s) or direction(s), as it may deem fit and proper in the facts and circumstances of the case.

And, for this act of kindness, the petitioners as in duty bound will ever pray.”

3. Taking this Court to the provisions in the Survey & Settlement Act and Rules involving a challenge here at Annexure-4 series, learned counsel appearing for the petitioner contends that looking to the stage of the matter, there was no occasion for entertaining an application under Orissa Survey & Settlement Rules. Learned counsel appearing for the petitioner also to support his case brings the reference of decisions in the case of *Sk. Abdul Fakir Vs. Charulata Kapandia & Ors*, reported in 2004(I) OLR 251, *Harihar Mohapatra & Ors. Vs. Commissioner of Land Records and Settlement Orissa & Ors*, reported in 1998 (II) OLR 495 and in the case of *Ganesh Prasad Das Vs. Tahasildar, Dhamnagar and Ors*, reported in 1997 (I) OLR 13.

4. This matter was earlier heard and deferred giving time to the counsel for the opposite parties have their submission, if any, while also keeping on record the serious objection of the private party appeared herein. On the submission of learned counsel for the petitioner in an attempt to take support the impugned order, today, on hearing of the case, there is no dispute at Bar on the application of the judgments referred to hereinabove to the case at hand.

5. In the circumstance and for the settled position of law preventing undertaking of Rule 34 of Orissa Survey & Settlement Rules exercise at the stage involved herein, this Court finds both the orders at Annexures-4 and 6 not sustainable, which are quashed hereby.

6. The writ petition disposed of.

(Biswanath Rath)
Judge

Sks