

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.552 of 2017

Sahadev Padhan and others ***Appellants***

Mr. B.N. Satpathy, Advocate

-versus-

State of Odisha and others ***Respondents***

Mr. Debakanta Mohanty, A.G.A. for the State

CORAM:
THE CHIEF JUSTICE
JUSTICE M.S. RAMAN

Order No.

ORDER
27.10.2022

04.

Misc. Case No.876 of 2017

1. For the reasons stated, the delay in filing the writ appeal is condoned.

2. The Misc. Case is allowed.

W.A. No.552 of 2017

3. Despite service of notice on Respondent Nos.5 and 6, none appears on their behalf today.

4. The challenge in the present appeal is to an order dated 5th April 2017 passed by the learned Single Judge dismissing the Appellants' W.P.(C) No.14551 of 2005 in which the Appellants had questioned the order dated 10th May, 2000 passed by the Additional District Magistrate (ADM), Bargarh in OLR Appeal No.76 of 1993, the order dated 6th November, 2003 passed by the Collector, Bargarh in OLR Revision No.7 of 2000 and the order

dated 25th August, 2005 passed by the Land Reforms Commissioner in OLR Revision No.13 of 2004 under Section 59 (2) of the Orissa Land Reforms Act, 1960 (OLR Act).

5. The initiation of the proceedings was under Section 23-A of the OLR Act at the instance of Respondent Nos.5 and 6 who claimed that the present Appellants had forcibly dispossessed them from the land in question in 1978.

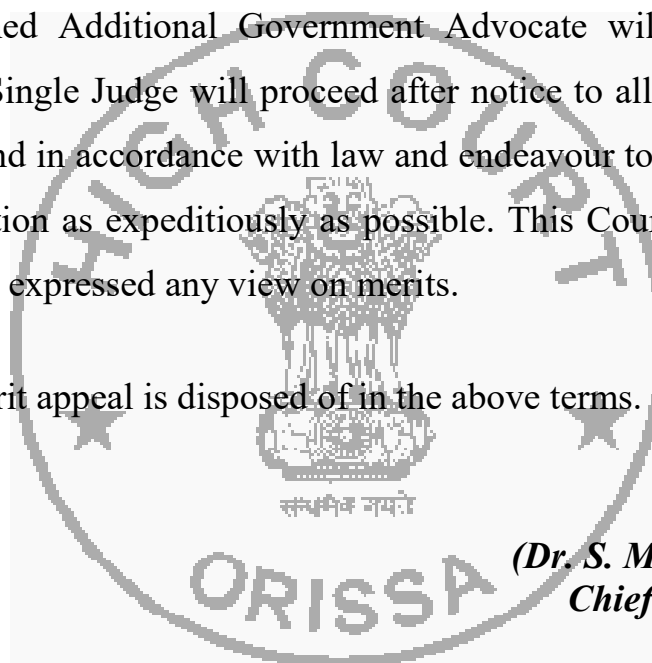
6. The learned Single Judge has in the impugned order dismissed the writ petition, not on merits, but only on the ground that it had been pending before the Court since 2005 and had been listed only once in 2014 for removal of defects and that no effective hearing had taken place for a period twelve years since it was filed. The ground of dismissal was that “entertaining such writ petition after twelve years will be unsettling the settled position in the meanwhile.”

7. As pointed out by the learned counsel for the Appellants, the listing or failure to list the writ petition was not in the hands of the Appellants and in any event in the matter of this nature which involves right, title and interest to the land in question and the resultant issues arising under the OLR Act, do not become academic only because of the passage of time. The Appellants could not have been rendered without a remedy against the aforementioned orders under the OLR Act under Article 226 of the Constitution. In other words, this Court is of the view that the writ

petition was required to be considered on merits by the learned Single Judge.

8. For the aforementioned reasons, the impugned order dated 5th April, 2017 of the learned Single Judge is set aside and W.P.(C) No.14551 of 2005 is restored to the file of learned Single Judge to be considered on merits. The writ petition will be listed before the roster Bench of the learned Single Judge on 14th December, 2022 on which date learned counsel for the present Appellants as well as the learned Additional Government Advocate will appear. The learned Single Judge will proceed after notice to all the remaining parties and in accordance with law and endeavour to dispose of the writ petition as expeditiously as possible. This Court clarifies that it has not expressed any view on merits.

9. The writ appeal is disposed of in the above terms.



(Dr. S. Muralidhar)
Chief Justice

(M.S. Raman)
Judge

S.K. Jena/Secy.