

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 11105 of 2022

Swadesh Mandal

.....

Petitioner

Mr.Lambodar Pradhan, Advocate

-versus-

Amar Mandal and others

....

Opp. Parties

Mr.Swayambhu Mishra,
Additional Standing Counsel
(For Opposite Party Nos.2 & 3)

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

17.05.2022

Order No.

1. This matter is taken up through Hybrid mode.
2. Petitioner in this writ petition seeks to assail the order dated 31th July, 2019 (Annexure-5) passed by Commissioner, Consolidation and Settlement, Odisha, Cuttack in Revision Petition No.56 of 2016, whereby he allowed the revision filed by Opposite Party No.1, namely, Amar Mandal and remitted the matter back to Tahasildar, Mahakalapada with direction to effect necessary correction in the Hal ROR after making due field enquiry, ascertaining the physical possession, verifying the Hal/Sabik co-relation and the original document, following due procedure.
3. Mr. Pradhan, learned counsel for the Petitioner relying on the ratio decided in the case *of Smt. Bijaya Chatterjee Vs. Commissioner, Land Records and Settlement, Orissa and others*, reported in 2000 (II) OLR 349 submitted that the Commissioner, while exercising power under Section 15(b) of the Odisha Survey and Settlement Act, 1958 cannot remit the matter back to the Tahasildar to take a decision in accordance

with law. It is his submission that if it is so required, the Commissioner may call for a report of the field enquiry from the concerned Tahasildar and pass orders on merit in the revision. In the instant case, the revisional authority remitted the matter to Tahasildar, Mahakalapada for disposal of the case in accordance with law, which is not permissible in law. Hence, the impugned order is not sustainable.

4. In course of hearing, Mr. Pradhan, learned counsel for the Petitioner submits that interest of justice will be best served if the Petitioner files an application for recall of order under Annexure-5 taking the aforesaid ground and prays for a direction to the Commissioner, Consolidation and Settlement, Odisha, Cuttack to pass reasoned order on the said petition for recall of the order under Annexure-5 on merit giving opportunity of hearing to the parties concerned.

5. Mr. Mishra, learned ASC has no objection to the above submission.

6. In view of the above, the writ petition is disposed of with a direction that in the event the Petitioner files an application for recall of order dated 31th July, 2019 (Annexure-5) within a period of three weeks hence detailing the grounds therein, the Additional Commissioner, Consolidation and Settlement, Odisha, Cuttack -Opposite Party No.3 shall do well to consider the same in accordance with law giving opportunity of hearing to the parties concerned.

Issue urgent certified copy of the order on proper application.

s.s.satapathy

(K.R. Mohapatra)
Judge