

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C). No. 10960 of 2004

*Krushna Chandra Mahakudu &
Ors.*

....

Petitioner(s)
Mr.S.D.Das, Sr.Advocate

-versus-

State of Odisha & Ors.

....

Opposite Party(s)
Mr.S.Ghose, AGA
Mr.A.K.Sahoo, Advocate
(O.P.No.4)

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
28.06.2022**

Order No.

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1. Heard learned counsel appearing for the parties.
2. This writ petition involves a challenge to the revisional order at Annexure-4, running page 15 of the brief.
3. Background involving the case is that R.M.C. No. 5 of 1997 was instituted at the instance of Bholanath @ Keshari Naik involving original petitioner herein. This original proceeding was disposed of by the competent authority, the Sub-Collector by its order dated 28.05.2001. On a revision being filed registered as Revision Case No.1 of 2004. From Annexure-4, it appears the revision has been dismissed by the Collector & District Magistrate on technical ground of maintainability. Mr.das, learned Senior Advocate appearing for the petitioner did not dispute on the petitioner involved herein the legal heirs of the original petitioner having a statutory remedy of appeal and claims petitioners have inadvertently filed revision. There is no dispute in the Bar even after dismissal of the revision under Annexure-4, there was no prevention in filing appeal. This Court however finds the writ petition was entertained sometimes in the year 2014. This Court further finds in

entertaining the writ petition in this Court possibly there was no scope for the petitioner to have the appeal remedy. For the opinion of this court, revision having been dismissed on the technical ground, nothing prevented the petitioner from filing a regular appeal under Regulation II of 1956.

4. Be that as it may, for the writ petition entertained in this Court and kept pending and for the petitioner having statutory remedy of appeal cannot be prevented in prosecuting his appeal remedy. In the circumstance, this Court though declines to entertain the revisional order directs the petitioner to file appeal before the competent authority within a period of four weeks hence. In the event appeal is filed along with an application under Section 14 of the Limitation Act for condoning the delay, for the petitioner bonafidely moving the writ petition and there is some wastage of time by entertaining the writ petition, delay shall be condoned after involving opposite parties therein and the appeal will be heard on its own merit.

5. The writ petition stands disposed of with the above direction.

(Biswanath Rath)
Judge