

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C). No.14224 of 2009

Babaji Das

....

Petitioner(s)
Mr.P.K.Rath, Adv.

-versus-

Sudarsan Parida & Ors.

....

Opp.Party(s)
Mr.S.Ghose, AGA

CORAM:

JUSTICE BISWANATH RATH

ORDER

13.12.2022

Order
No.

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1. Heard Mr. Rath. learned counsel appearing for the petitioner and Mr.S.Ghose, learned Additional Government Advocate for the State. In spite of notice, nobody is appearing for the private opposite parties.

2. Moot question involved herein is that whether the sale involved attracts the restrictions through the provisions in the sale of Scheduled Caste land on the premises that the sale taking place on 20.6.1981. Undisputedly, the private opposite party involved was not identified to be a Scheduled Caste through the Presidential notification by this date. In the circumstance, Mr.Rath, learned counsel for the petitioner submits that for there is no transaction involving the caste with general by the sale dated 20.6.1981 provision at Section 23 of O.L.R. Act has no application to the case at hand

3. There is no dispute at the Bar at least from the side of the State that the caste of the private opposite party involved herein was not included in the Presidential notification.

4. Considering the rival contentions of the parties, this Court finds amendment, if any, or inclusion of caste, if any, in the Presidential notification since prospective, cannot take away the

transaction already made prior to such inclusion. This Court here taking into account a decision of this Court in the case of ***Jami Ramesh & Anr. Vs. State of Orissa & Ors, 2019 (II) OLR-94*** and considering that there is settled position of law operating in the field, this Court finds Original Proceeding vide Annexure-3 since not entertainable, interferes with the same. Accordingly, this Court sets aside the Original Proceeding vide Annexure-3. As a consequence, the appeal order as well as revisional order must go, which are also interfered and set aside.

5. In the result, the writ petition succeeds.

Sks



(Biswanath Rath)
Judge