IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C). No. 13776 of 2009

Smt. Kamala Sethi .... ***Petitioner***
Mr. S.K.Dash

-versus-

Gadadhar Behera & Others .... ***Opp. Parties***
Mr. P.K. rath for Opposite Party No.1

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K.PATTANAIK

Order No. **ORDER**
10.02.2022

3. 1. It appears that already a proceeding is pending before the Board of Revenue arising out of an order dated 31st January, 1997 passed by the Collector, Bhadrak in OLR Revision Case No. 12 of 1993 whereby he had recommended that suo motu revision be initiated against the order dated 31st January, 1989 passed by the learned Additional District Magistrate (ADM) in OLR Revision Case No. 7 of 1985.

2. In present proceedings which began as one for fixation of rent, the Tahasildar, Basudevpur, on 22nd July 2003, directed the preparation of the record of rights (ROR) the name of Opposite Party No.1. The Petitioner preferred an appeal against the said order to the Sub-Collector who by an order dated 31st March, 2005 set is aside. However, Revision Case No. 3 of 2005 preferred by Opp. Party No. 1 was allowed by the ADM on 4th May, 2007 and the Tahasildar's order was restored. Review

Petition filed by the present Petitioner against the said order dated 4th May, 2007 was dismissed by the ADM on 29th December, 2008. It is against the aforementioned two orders dated 4th May, 2007 and 29th December, 2008 that the present petition has been filed.

3. Mr. P.K.Rath, learned counsel appearing for the Opposite Party No.1 points out that under Section 38-B of the Orissa Estate Abolition Act, 1981 (OEA Act), a revision petition is maintainable against the impugned orders before the Member, Board of Revenue.

4. While not disputing the above contention, learned counsel for the Petitioner submits that the order of the Tahasildar which has been affirmed by the ADM is without jurisdiction.

5. Having considered the submissions, the Court is of the view that the Petitioner should first exhaust the alternative efficacious remedy of revision provided under Section 38-B of the OEA Act before approaching this Court. The grounds urged by the Petitioner in the present petition can well be urged before the Board of Revenue in the aforementioned proceedings.

6. If such revision petition is filed before the Board of Revenue not later than 3rd March, 2022 along with an application explaining the delay on account of the pendency of the present petition, such application shall be considered on merits by the Member, Board of Revenue. This Court clarifies that it has not expressed any view on merits. It will be open to the Petitioner to

request for an early disposal of the revision petition if it is filed within the date stipulated. The pending petition before the Board of Revenue may be heard together with the above Revision petition to be filed.

7. The writ petition is disposed of in the above terms.

8. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(R.K.Pattanaik)
Judge

Tudu/kabita