

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 12128 OF 2022

Binay Kumar Parida

Petitioner

Mr. M.K. Rath, Advocate

-versus-

***Commissioner, Consolidation and
Settlement, Odisha and others***

.... Opp. Parties

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

20.05.2022

Order No.

2. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition seeks for a direction to set aside the order dated 7th July, 2021 (Annexure-5) passed in R.C. Case No.772 of 1993, whereby the Commissioner, Consolidation and Settlement, Odisha, Bhubaneswar allowed the revision directing to record the land in the name of Opposite Party Nos.5 to 7.
3. The matter was last listed on 13th May, 2022 on which date the Petitioner was directed to clarify as to whether Bijay Kumar Parida referred to in the impugned order and Binay Kumar Parida, the writ Petitioner are one and the same person by filing documents. Today, Mr. Rath, learned counsel for the Petitioner by filing an affidavit submits that Binay Kumar Parida and Bijay Kumar Parida are not the same person and they are brothers. The land in question was purchased by Binay Kumar Parida (the Petitioner). By gaining over his brother Bijay Kumar Parida, the Opposite Party Nos.5 to 7 managed to record their land in their

name. By the time the Petitioner came to know about filing of the revision, the impugned order had already been passed.

4. In that view of the matter, he filed a petition for recall of the order passed under Annexure-5, on 11th April, 2022 along with a petition for condonation of delay. It is his submission that in spite of his best effort, the Commissioner, Consolidation and Settlement, Odisha, Bhubaneswar is not taking up the said petition for which the Petitioner is highly prejudiced. Hence, finding no other alternative, the Petitioner has filed this writ petition.

5. Mr. Mishra, learned Additional Government Advocate submits that he has no instruction in the matter. However, if the Petitioner has filed an application for recall of the order under Annexure-5 along with petition for condonation of delay, the same may be considered in accordance with law.

6. Taking into consideration the submissions made by learned counsel for the parties, this Court disposes of this writ petition with a direction that on production of certified copy of this order within a period of two weeks hence, the Commissioner, Consolidation and Settlement, Odisha, Bhubaneswar-Opposite Party No.1 shall do well to take up the petition for condonation of delay filed under Section 5 of the Limitation Act (Misc. Case No.5 of 2022) as expeditiously as possible preferably within a period of eight weeks therefrom and proceed with the matter in accordance with law.

7. Till disposal of the application for recall of the impugned order under Annexure-5 along with an application for condonation

of delay, the impugned order under Annexure-5 shall be kept in abeyance, if not already given effect to.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge

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