

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.22073 OF 2017

Anjan Patnaik

....

Petitioner

Mr.B.P.Das, Adv.

-versus-

State of Odisha & ors.

....

Opposite Party(s)

Mr.S.Mishra, ASC

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
29.8.2022**

Order No.

8.

1. Heard learned counsel for the Parties.
2. Taking through the pleadings and the impugned orders at Annexure-7 & 8, learned counsel for the Petitioner contested both the orders herein not only on the premises for being ex parte but also contested the orders on the premises that had the Member, Board of Revenue heard the Petitioner, for the material disclosures in the Writ Petition, his order would have been in favour of the Petitioner and there could not have been any scope for remand of the matter, vide Annexure-7. Annexure-8 is also challenged on the ground of being ex parte in nature and in addition to the above background.
3. Learned Additional Standing Counsel for the O.Ps. taking this Court to both the impugned orders at Annexure-7 & 8 contended

that for the disclosures therein, it appears, there has been right consideration of the issue involved therein, further for there is a remand order involved, petitioner has the definite scope for establishing his case in the remand proceeding and petitioner suffers for his own latches.

4. For the opinion of this Court and keeping in view the nature of dispute involved therein, the matters involving Annexure-7 ought to have been decided in presence of the Petitioner and also taking into consideration the documents, if any, taken support therein. It is only on the ex parte nature of the order, this Court interferes in the impugned order at Annexure-7 and the consequential order, vide Annexure-8 also suffers on the same analogy.

5. In the process, this Court interfering with the orders at Annexure-7 & 8 sets aside the both. For there is fresh requirement of re-adjudication of the proceeding under Section 32 of the OSS Act, the matter is remitted to the Member, Board of Revenue for re-adjudication of O.S.S. Case No.127 of 2013. The Petitioner is directed to appear before the Member, Board of Revenue on 19.9.2022 and on production of copy of this order, the Member, Board of Revenue shall do well in re-adjudicating the said case involving the Petitioner. The Petitioner is also permitted to place his

further submission and documents in support of his case, if any, for consideration of the Member, Board of Revenue but on the date of appearance itself.

5. With the above direction, the Writ Petition stands disposed of.

(Biswanath Rath)
Judge

M.K.Rout

