

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 10266 of 2018

Sushanta Kumar Das

....

Petitioner

Mr. Sidharth Mishra, Advocate

-versus-

State of Odisha and others

.... ***Opp. Parties***

Mr. S. N. Mishra,

Additional Government Advocate

(For Opposite Party Nos. 1 to 4)

Mr. Ambika Prasad Ray, Advocate

(For Opposite Party No.5)

**CORAM:
JUSTICE K.R. MOHAPATRA**

**ORDER
12.04.2022**

Order No.

IA No.3602 of 2022

- 7.
1. This matter is taken up through hybrid mode.
 2. Opposite Party No.5 has filed this IA to recall order dated 7th March, 2022 passed in W.P.(C) No.10266 of 2018, by which the writ petition was disposed of.
 3. Mr. Ray, learned counsel for Opposite Party No.5 submits that the writ petition was heard in his absence. Hence, he could not put forth the case of Opposite Party No.5 before this Court at the time of adjudication of the writ petition. It is his submission that RP No.787 of 2015 along with eighteen other cases of similar nature were disposed of by a common order dated 19th July, 2017. Several writ petitions were also filed before this Court assailing the said common order. Although Opposite Party No.5 participated in the said proceedings before the revisional Court, but due to her misfortune, her counsel could not be present at the time of

hearing of the writ petition. He also submits that this Court, while disposing of the writ petition, took into consideration the orders passed in W.P.(C) No.8737 of 2018, which was filed assailing the order passed in RP Case No.795 of 2015, which was heard along with the Revision Petition involved in the present writ petition. The said writ petition was disposed of vide order dated 19th June, 2018. However, this Court, without affording opportunity of hearing to Opposite Party No.5, disposed of the present writ petition in the light of the order passed in W.P.(C) No.8737 of 2018.

3.1 It is his submission that after remand of the matter to the revisional Court, one of the revisions, i.e., RP No.794 of 2015, has already been disposed of by the revisional court and the order passed therein is under challenge in the connected writ petition [WP(C) No.40478 of 2021]. This Court, while issuing notice in the matter on 3rd February, 2022, has been pleased to grant interim order directing the parties to maintain *status quo* over the land in question till the next date.

3.2 In that view of the matter, order dated 7th March, 2022 passed in W.P.(C) No.10266 of 2018 is required to be recalled and the writ petition may be heard along with W.P.(C) No.40478 of 2021.

4. Mr. Mishra, learned counsel for the writ Petitioner objecting such submission, contended that since nineteen revision petitions were disposed of by a common order, equal numbers of writ petitions were filed assailing the said common order. Eighteen numbers of writ petitions were disposed of with similar orders remitting the matters to the revisional court for fresh adjudication providing opportunity of hearing to the

parties. This Court taking note of the same, remanded the matter to the revisional Court for fresh consideration. One of the order relying upon which this writ petition was disposed of, has already been acted upon by entertaining RP No.795 of 2015. Hence, the writ Petitioner has right to be heard in the matter before the revisional Court. Opposite Party No.5 on being noticed in the writ petition had entered appearance through his counsel, who remained absent at the time of hearing of the writ petition. As such, this Court has not committed any error in disposing of the writ petition in absence of learned counsel for Opposite Party No.5.

5. Taking into consideration the submissions of learned counsel for the parties and on perusal of record, it reveals that nineteen numbers of revision cases were heard by the Commissioner analogously and were disposed of by a common order. Equal numbers of writ petitions were filed challenging the said common order. Eighteen numbers of writ petitions were disposed of remitting the matters to the Commissioner for fresh adjudication providing opportunity of hearing to the parties therein. It further reveals that W.P.(C) No.10266 of 2018 was disposed of relying upon the decision passed in W.P.(C) No.8737 of 2018 (one of the nineteen writ petitions), which arose out of RP No.795 of 2015 and was heard analogously with RP No.787 of 2015. Learned counsel for the Opposite Party No.5 does not also dispute the same. Thus, this Court has committed no error in disposing of W.P.(C) No.10266 of 2018 in the light of order passed in other similar writ petitions, more particularly when the orders passed in other similar writ petitions have already been given effect to. Thus, I

am not inclined to recall the order, as prayed for. However, the Petitioner as well as Opposite Party No.5 in the instant writ petition has a right to place their respective cases before the revisional Court.

7. Accordingly, I find no merit in the IA, which is accordingly dismissed. Case record in W.P.(C) No.40478 be returned to the concerned Section.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge



s.s.satapathy