

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.3618 OF 2003

Laxmidhar Swain

....

Petitioner(s)

Mr.A.K.Bose,
Advocate

-versus-

Kulamani Nayak

....

Opposite Party(s)

Mr.B.Mishra,
Advocate

CORAM:
JUSTICE BISWANATH RATH

ORDER
26.08.2022

Order No.

14. 1. Heard learned counsel for the Parties.
2. Without delving with the detailed fact straightway moving to consider the point involved that even though there is availability of boundary descriptions can there be refusal to entertain objection vide Section-9 of the O.C.H. & P.F.L Act merely because there is no availability of the extent the land involved therein? This Court finds, there is no denial in the Bar that the sale deed at least disclosed the boundary involving the disputed land in sale. Law is fairly settled observing a sale deed cannot be thrown out merely because the sale of extent of land or is not disclosed and a sale deed still remain valid provided there is at least disclosure of boundary involving such sale.
- It is further settled in the event the sale deed at least gives a disclosure of boundary in such sale, the right of the party through such sale deed can be determined on the basis of such boundary disclosure and nothing beyond that.
3. It is taking into consideration all the three orders involved, this Court finds all the three forums have relied much on non-

disclosure of the extent of land sold in the sale deed involving and there has been no consideration of the settled position of law in considering the case of the parties in finding if there is at least boundary description available to take a decision in the proceeding involved. As such the decision of all three forums remains contrary to the settled position of law.

4. This Court accordingly interferes in all three impugned orders and sets aside the impugned orders vide Annexures-1, 2 & 3 and remand the matter back to the original authority the Consolidation Officer to re-adjudicate the original proceeding and take decision as appropriate, keeping in mind that the right of the Parties still follows through the boundary descriptions involving the sale deed. All the parties are directed to appear before the Consolidation Officer on 16th September, 2022 and take date of hearing for fresh adjudication involving the matter at least within a period of four months. Further objection, if any, by any party permitted to be raised in the course of hearing.

(Biswanath Rath)
Judge

Swarna