

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C).No.11253 of 2016

Bata Krishna Rout & Ors.

....

Petitioner(s)

Mr.S.N.Panda, Advocate

-versus-

Bhagaban Nayak & Anr.

....

Opposite Party(s)

Mr.A.P.Bose, Advocate
(For O.P.No.4)

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
07.03.2022**

Order No.

10.

1. Heard learned counsel appearing for the parties.
2. For the submission and counter of the respective parties, moot question comes here even assuming the revision proceeding contained the plea of limitation in filing a revision under Section 37(1) of the O.C.H & P.F.L. Act, 1972 if the Revisional Authority justified in taking up the revision application and the limitation petition together and deciding the matter at one go. The matter was taken up on earlier date and on the appearance even though it has been established that the revision petition since contained the plea of limitation on filing the revision after so many years and that there was no necessity in filing of an independent limitation petition for not being prescribed under the statute, if it was possible on the part of the Commissioner in taking the revision under Section 37 of the O.C.H. & P.F.L. Act, 1972 while also deciding the limitation aspect. However an independent order on the limitation aspect should have been given before attending to final hearing.
3. It is here this Court finds the revision was filed after 22 years. For gross delay in filing the revision, it was necessary on the part of the

Commissioner undertaking the exercise under Section 37 of the O.C.H. & P.F.L. Act, 1972 undertaking the exercise of hearing of the limitation petition first and after passing an independent order on refusal or acceptance of the limitation application decided to proceed for hearing of the revision and decided accordingly.

4. In the circumstance and for there is no independent hearing on the limitation petition, this Court finds the order involved herein is not sustainable in the eye of law. As a consequence, this Court interfering in the order at Annexure-1, sets aside the same but, however, since there is requirement of re-doing the exercise of the revisional authority, this Court remits the matter to the revisional authority with a direction to first hear the parties involved on the question of limitation and passing order thereby, further dependant on the outcome to enter into the final hearing of the main case. In the fresh hearing, neither the observation of this Court nor the observation in the impugned order will have any play.

5. The writ petition stands disposed of with the observation and direction made hereinabove.

6. Since the writ petition is disposed of in presence of the contesting parties, both the parties are directed to appear before the revisional authority along with certified copy of this order on 28.03.2022 and take the date for hearing on the question of limitation.

(Biswanath Rath)
Judge