

IN THE HIGH COURT OF ORISSA AT CUTTACK
RVWPET Nos.138 and 139 of 2011

In RVWPET No.138 of 2011

State of Orissa. *Petitioner*
Mr. Anupam Rath, ASC

-versus-

Panchanan Mallick *Opp. Party*
Mr. Gautam Mishra, Sr. Adv.

In RVWPET No.139 of 2011

State of Orissa. *Petitioner*
Mr. Anupam Rath, ASC

-versus-

Debendranath Parija *Opp. Party*
Mr. Gautam Mishra, Sr. Adv.

CORAM:
MR. JUSTICE JASWANT SINGH
MR. JUSTICE S.K. PANIGRAHI

ORDER
20.05.2022

Order No.

05. 1. Both the matters are taken up through hybrid arrangement.
2. RVWPET No.138 of 2011 has been filed at the instance of the State seeking review of the order dated 14.08.2006 passed by this Court in W.P.(C) No.1332 of 2006 quashing the order dated 11.08.2005 passed by the Collector, Jagatsinghpur in O.G.L.S. Revision No.35 of 2004. RVWPET No.139 of 2006 has also been filed at the instance of the State seeking review of the order dated 10.01.2007 passed by this Court in W.P.(C) No.1333 of 2006 quashing the order dated 11.08.2005 passed by the Collector, Jagatsinghpur in O.G.L.S. Revision No.30 of 2004.

3. Facts of the case in brief are that the opposite party in RVWPET No.138 of 2011 (hereinafter referred to as “the opposite party no.1 for brevity) served as a Jawan in the Indian Army from 1961 to 1977 and the opposite party in RVWPET No.139 of 2011 (hereinafter referred to as “the opposite party no.2” for brevity) served as a Jawan in the Indian Army from 1958 to 1986. They were granted some lands on lease basis by the Government of Orissa recognizing their service in the Indian Army. The opposite party No.1 was granted land to an extent of Ac.5.00 vide order dated 09.09.1974 passed by the Tahasildar, Kujanga in Lease Case No.26/12 of 1970-71. The opposite party No.2 was also granted five acres of land vide order dated 24.07.1980 passed by the Tahasildar, Kujanga in Lease Case No.31/80. Subsequently, several Writ petitions were filed before this Court raising grievance about the illegal execution of the lease deeds and prayed for their cancellation. They also sought to dispossess the possession holders of the leased land.

4. One of such writ petitions was OJC No.11136 of 1999. As it appears, this Court vide order dated 23.03.2004 while taking cognizance of OJC No.11136 of 1999 directed the authorities to take action in accordance with law for cancellation of the lease granted to some individuals. In compliance thereof, it appears that some actions were stated to have been taken, but the petitioners thereof were not satisfied. Thus, the order dated 15.05.2008 was passed directing the authorities to furnish complete particulars pertaining to the number of lease deeds had been cancelled. In their reply, the authorities had stated that

46 lease deeds had been cancelled, including the lease deeds of the opposite party Nos.1 and 2. Against such orders of cancellation dated 11.08.2005 passed by the Collector, Jagatsinghpur in O.G.L.S. Revision No.35 of 2004 and in O.G.L.S. Revision No.30 of 2004 respectively, the opposite party nos.1 and 2 approached this Court by filing W.P.(C) No.1332 and 1333 of 2006.

5. Learned Counsel for the Review Petitioners argue that the Lease Deed cannot be cancelled after the expiry of 14 years as prescribed under Section 7A of the Orissa Government Land Settlement Act, 1962 (hereinafter referred to as “the O.G.L.S. Act” for brevity) and the order of the court and authority below had been set aside.

6. The said W.P.(C) No.1332 of 2006 filed by the opposite party No.1 was allowed on 14.08.2006 quashing the order dated 11.08.2005 passed by the Collector, Jagatsinghpur in O.G.L.S. Revision No.35 of 2004 and W.P.(C) No.1333 of 2006 was allowed on 10.01.2007 quashing the order dated 11.08.2005 passed by the Collector, Jagatsinghpur in O.G.L.S. Revision No.30 of 2004 on various grounds and also following the judgment and order dated 10.08.2006 passed in W.P.(C) Nos.10156 and 10158 of 2006. One of the prominent grounds was that the lease could not have been cancelled after expiry of the limitation period i.e. 14 years as provided under the proviso to Section 7A of the O.G.L.S. Act.

7. It has been pointed that a list of lease deeds of 49 cases were submitted before the Tahasilar for examination and cancellation. But, only 46 lease deeds were cancelled. There are

many lease deeds which have not been kept out of the pale of cancellation. Therefore, there is an urgent need of enquire into the matters and fixing the responsibility on the persons responsible for executing the lease deed illegally. It was further submitted that the direction to take possession of the land and restore it to the Forest Department by 31.05.2009 and submit the compliance report by the Tahasildar, Tirtol was to be submitted within the 1st week of June, 2009. It is pertinent to mention here that the writ petitions filed by the Ex-Army Personnel have been allowed and the judgments and orders passed in the writ petitions attained finality and it is neither permissible nor desirable to re-open the case at this point in time. In fact, the present Review petitions are akin and covered by the orders in OJC No. 11136 and EVWPET No. 137 of 2011. Since the present Review Petitions No. 137/2011 is quite identical to the present batch of cases and it can be treated in the same way since those cases have attained finality, the present case need to be meted with same fate.

8. Accordingly, since the W.P.(C) Nos. 1332, 1333, 10156, and 10158 of 2006 were filed challenging the cancellation of lease deeds in certain *suo motu* revisions by the Collector, Jagatsinghpur and which were allowed setting aside the orders passed in those *suo motu* revisions.

9. We have considered the rival contention of the parties and perused the case record. We do not find any infirmity in the orders impugned in RVWPET Nos.138 and 139 of 2011.

10. Therefore, both the RVWPETs filed by the State are dismissed.

11. There shall be no orders as to costs.

(Jaswant Singh)
Judge

(S.K. Panigrahi)
Judge

May 20th, 2022
Cuttack/BJ

