

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C). No. 14825 of 2022

*Lakhapati @ Lakhram Bhue @
Bhoi*

.... ***Petitioner(s)***

Mr.K.K. Jena, Advocate

-versus-

State of Odisha & Anr.

.... ***Opposite Party(s)***

Mr. S. Ghosh, AGA

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
29.06.2022**

Order No.

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1. Heard learned counsel appearing for the parties.
2. The writ petition involves a challenge to the order at Annexure-3 being passed by Tahasildar, Bargarh in exercise of power under Rule 34 of the Odisha Survey and Settlement Rules, 1962 read with paragraph-17 of Odisha Mutation Manual.
3. Referring to the impugned order dated 25.04.2020, learned counsel appearing for the Petitioner submits, first of all the Bargarh District need not require Probate of the Will, further the impugned order also remains defective on the ground of no reason in rejection of the case of the Petitioner at least providing the Petitioner to have the scope of Appeal. It is claimed that mere mentioning of a Government instruction cannot be treated to be the reason of rejection. Taking this Court to the order passed in similar case by a Co-ordinate Bench of this Court in W.P.(C). No.812 of 2021, learned counsel for the Petitioner also submits in similar situation, this Court in the above Writ Petition interfering similar order has already remitted the matter involved therein for fresh consideration of the Tahasildar, Bargarh. Learned counsel claims benefit of the aforesaid order also to the Petitioner.

4. Shri Ghosh, learned Addl. Standing Counsel, however, taking this Court to the restrictions in Annexure-4 contended that there is rightful rejection of the proceeding involved requiring no interference.

There is, however, no dispute with regard to the order passed by the Co-ordinate Bench in W.P.(C). No. 812 of 2021 and has also application to the case at hand.

5. Considering the rival contentions of the parties, this Court while deprecating the manner of disposal of the mutation case by the Tahasildar, Bargarh passing unreasoned order also finds, in similar situation in disposal of W. P.(C). No. 812 of 2021. A Co-ordinate Bench of this Court remitting the matter to the Tahasildar, Bargarh directed for reconsideration of the issue involved in the manner indicated therein, This Court going through the order of this Court passed in W.P.(C). No. 812 of 2021 finds the principle decided therein, has also application to the case at hand.

6. In the circumstance, this Court interfering with the impugned order at Annexure-3 involving Mutation case No. 5666 of 2019 remits the matter to the Tahasildar, Bargarh for reconsideration of the issue involved therein also keeping in view the directions contained in, the disposal of the W.P.(C). No. 812 of 2021. The Tahasildar shall also consider the decision making clear that there may not be requirement of Probate involving Will in the District of Bargarh.

7. Let the Petitioner appear before the Tahasildar, Bargarh along with a copy of this order so also copy of order passed in W.P.(C) .No. 812 of 2021 enabling the Tahasildar, Bargarh to dispose of the matter afresh involved herein at least within a period of four months from the date of communication of this order, further also providing opportunity of hearing to the Petitioner.

8. This Writ Petition thus stands disposed of.

(Biswanath Rath)
Judge