

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.16033 of 2022

(Through Hybrid mode)

Purnima Ray and others

....

Petitioners

Mr. Tusar Kumar Mishra, Advocate

-versus-

Susamarani Ray and others

....

Opposite Parties

Mr. A. K. Sharma, AGA

CORAM: JUSTICE ARINDAM SINHA

ORDER

28.10.2022

Order No.

01. 1. Mr. Mishra, learned advocate appears on behalf of petitioners. He submits, his clients are the widow, sons and daughters of the deceased. The Tahasildar made order dated 2nd June, 2016 for issuance of legal heir certificate to his clients as well as the person, noted therein as second wife and daughter of the deceased through her. His clients appealed. The Sub-Collector, by impugned order dated 10th March, 2022 though advised the parties to approach competent civil Court but made observations therein regarding inclusion of said person for purpose of identifying the daughter through her.
2. He relies on clause (d) under rule 3 in Orissa Miscellaneous Certificates Rules, 1984 to submit, in event impugned order remains

outstanding, the civil Court is likely to be influenced thereby in adjudicating his clients' claim of being the only legal heirs. On query from Court he submits, the daughter through the other woman is also a legal heir.

3. Mr. Sharma, learned advocate, Additional Government Advocate appears on behalf of State and submits, there has been subsequent administrative order pursuant to the rules, requiring advice to be given for parties to approach the civil Court.

4. Direction made in impugned order advising parties to approach the civil Court for redressal of the grievance is correct. However, in referring the parties to the civil Court, there was no necessity for observations being made regarding inclusion of names in the legal heir certificate. In the circumstances, it is made clear that the advice to parties to approach the civil Court is to be followed. In event the civil Court is approached, it will not take cognizance of any observation made in impugned order.

5. The writ petition is disposed of.

(Arindam Sinha)
Judge

Prasant