IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.13845 of 2019

Gunalata Khatua & Ors. .... ***Petitioner(s).***
Mr.B.Muduli,
Advocate

State of Orissa & Anr. .... ***Opposite Party(s)***
Mr. S.P.Panda, AGA

CORAM:
JUSTICE BISWANATH RATH

ORDER
14.09.2022

Order No.

03. 1. Heard learned counsel appearing for the parties.

2. This writ petition involves the following prayer:

> "It is, therefore, prayed that this Hon'ble Court would graciously be pleased to admit the writ application, issue Rule NISI in the nature of writ of certiorari or other writs in calling upon the Opp. Parties to show cause as to why the impugned order passed by Opp. Party No.2 vide Annexure-6 of the writ petition shall not be quashed as illegal and Opp.Party No.1 shall not be directed to correct the Hal R.O.R. and map of Plot No.1235 of Mouza-Batira as Ac.0.07 decimal in place of Ac.0.06 decimal in consonance with previous record.
>
> And in the event the Opp. Parties fails to show cause or show insufficient or no cause then quash Annexure-6 and direct Tahasildar, Marshaghai to re-correct the area of Hal R.O.R. and map of Plot No.1235 of Mouza-Batira as Ac.0.07 decimal in place of ac.0.06 decimal as per previous record.
>
> And for this act of your kindness, the petitioners as in duty bound shall ever pray."

2. Sole ground of challenge involving the impugned order appears to be in spite of filing plot index vide Annexure-3 in his moving the petition under Section 15(b) of the Orissa Survey & Settlement Act, 1958 and in spite of recording of correct informations in the plot index in the description of schedule of property by the Commissioner, unfortunately on wrong reading and given wrong description of hal plot beyond the description in the plot index and the

Commissioner Consolidation in Settlement, Orissa came to reject the petitioner's prayer in the revision Petition No.852 of 2015. To satisfy his submission, learned counsel for the petitioner took this Court to the plot index filed at Aannexure-3 herein and reading through the schedule of property described, counsel attempted to satisfy this Court that there has been wrong consideration of plot index available for the purpose.

3. Mr.Panda, learned Additional Government Advocate submits that for the availability of plot index at Annexure-3, there is no dispute in the claim of the petitioner. He however urged the observation of the Commissioner, Consolidation & Settlement can be found to be untrue provided such a plot index is very much available in the case record.

4. Considering the rival contentions of the parties, this Court finds a clear statement by the petitioner that in moving 15(b) application the petitioner has very much taken support of the plot index available at Annexure-3, which also appears to be prima facie true for the reason of description of the schedule of property by the Commissioner himself.

5. In the circumstance, this Court finds there has been erroneous rejection and taking into account incorrect hal plot number in the consideration process contrary to the plot index description as an outcome, this Court finds there has been improper consideration of the case of the petitioner keeping in view the plot index appended therein. However since there is requirement of fresh consideration of Section 15(b) proceeding, this Court interfering in the order at Annexure-6 , sets aside the same and remits Revision Petition No.852 of 2015 back to the Commissioner concerned for re-appreciation of the proceeding involved therein. It further also appears, the discussions and the

mentioning of description of Plots also remain contrary to Annexure-2. Petitioner if so advised, may file further document, if any, required to satisfy his case. Petitioner is directed to appear before the Commissioner on 26th September, 2022 along with certified copy of this order and the remand proceeding is directed to be disposed of at least within a period of two months from the date of production of certified copy of this order.

6. Petitioner is permitted to take back the original in Anmnmexure-2 series and Annexure-6 on substitution of Xerox copy thereof.

7. The writ petition thus disposed of.

(Biswanath Rath)
Judge

sks

HIGH COURT ORISSA