

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.20862 OF 2022

Premalata Bal

.... ***Petitioner(s)***
Mr.B.Baisakh,Adv.

-versus-

***Secretary, Revenue & Disaster
Management Dept, Bhubaneswar
and others***

.... ***Opposite Party(s)***
Mr.S.P.Panda,AGA
Mr.D.Patra,Adv.

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
22.11.2022**

Order No.

05.

1. Heard learned counsel for the Parties.
2. The Writ Petition involves a challenge to the order dated 20.06.2022 in O.S.S. Case No.299 of 2020. Learned counsel for the Petitioner taking this Court to the cause title position of the parties and the discussion on the case of the parties contended that once there is dispute between the private parties, it becomes the responsibility of the Commissioner taking up such case at least to record the claim and rival contentions of the parties and add to this, it also further becomes the responsibility of the Additional Commissioner or the Commissioner as the case may be to give his reasoning before concluding such proceeding. On both grounds indicated hereinabove, the impugned order is challenged.
3. Mr. Patra, learned counsel for the private Opposite Parties in the Writ Petition, the Petitioner in a proceeding under Section 15(b) of the O.S.S. Act, though did not object to the claim of the learned

counsel for the Petitioner however for the reasons assigned therein attempted to support the impugned order. Mr.Patra, learned counsel further also through the counter affidavit brought to the notice of the Court that based on Section 15(b) of the O.S.S Act involved herein, there has been correction in the Record of Right in the meantime and Patta has already been issued in favour of the private Opposite Parties.

4. Mr.Panda, learned Additional Government Advocate attempted to support the submission raised by Mr.Patra, learned counsel for the private Opposite Parties thus attempted to justify the impugned order.

5. Considering the rival contentions of the parties, keeping in view the claim and oppositions of the respective parties, this Court going through the discussion part in the case involved finds, there is absolutely no discussion on the claim of the Opposite Parties therein, there is simple recording of hearing the parties concerned. In the entire reading of the impugned order, this Court finds, there has been indication on the claim of the Petitioner, the documents taken support by the Petitioner and consideration being based on para-wise report received from the Assistant Settlement Officer. Even there is no dealing with the claim of the Petitioner herein, the private Opposite Parties therein. This Court accordingly finds, there has been no lawful disposal of the proceeding by the Quashi- Judicial Authority involved herein. For the nature of the dispute involved herein, it becomes the responsibility of the Quashi-Judicial Authority in disposing of such matters to have at least deal with the case of the parties and conclude the proceeding only after giving reason in negating claim of either parties therein.

6. In the circumstance this Court finds, the impugned order at Annexure-5 remain unjust. Interfering in the order dated 20.06.2022

by the Additional Commissioner, this Court sets aside the same. However for there is requirement for fresh adjudication of the proceeding involved, this Court remands the proceeding to the Additional Commissioner, Additional Revisional Court under the member of Board of Revenue, Odisha, Cuttack for fresh hearing of O.S.S. Case No.299 of 2020 and giving a fresh disposal specifically attending to the case of the parties and giving reason in his accepting the case of either of the parties. Fresh disposal be attended within a period of three months. Since the case is taken up in presence of all parties, they are directed to appear before the Commissioner concerned on 02.12.2022 along with copy of the order of this Court and take the date of hearing.

7. The Writ Petition thus stands disposed of.

(Biswanath Rath)
Judge

Swarna

