

IN THE HIGH COURT OF ORISSA AT CUTTACK

**W.P.(C) No. 19286 of 2018
(Through hybrid mode)**

Srikanta Ghosh

....

Petitioner

Mr. G.N. Mishra, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. A.K. Nanda, AGA

CORAM:

**JUSTICE ARINDAM SINHA
JUSTICE SANJAY KUMAR MISHRA**

**ORDER
23.11.2022**

Order No.

5.

1. Mr. Mishra, learned advocate appears on behalf of petitioner and submits, impugned is order dated 25th October, 2018, whereby lease granted to his client was determined with forfeiture of conversion fee paid by him.

2. It appears, petitioner had taken credit facility from Vijaya Bank on creating mortgage by deposit of the lease deed. He thereafter made false statements on oath, by affidavit filed before the authority, saying he had misplaced the deed, while applying for conversion. The bank informed the authority of the mortgage. Hence, on that ground show cause dated 16th June, 2011 was issued and thereupon the lease determined. On query from Court Mr. Mishra submits, his client has since repaid the loan.

3. Mr. Nanda, learned advocate, Additional Government Advocate appears on behalf of State and submits, petitioner, while applying for conversion, filed false affidavit. Show cause was duly issued and on consideration of all relevant materials, impugned order was made. He submits, impugned order was passed in terms of clause (4) of the allotment order. It was duly done. There should not be interference..

4. Two paragraphs from show cause dated 16th June, 2011 are reproduced below.

“While disposing off your application for conversion of leasehold plot No.1021, Drg. No.B/1082, which was allotted to you in exchange of Plot No.879, it came to notice from the letter of Chief Manager, Vijaya Bank dt.2.6.2011 (copy enclosed) that you had filed false affidavit that the Deed No.905, dt.8.6.1994 has been misplaced when the said deed was put to co-lateral mortgage in Vijaya Bank.”

Whereas, by mis-representation of facts you could surreptitiously got the allotment of Plot 1021 by de-frauding the State.

Clause (4) from allotment order dated 11th June, 2010 is reproduced below.

“4. He/She shall have to file an affidavit in the prescribed form duly sworn in before any Magistrate about non-possession of land/house/flat within Bhubaneswar Municipal Area, during execution of lease

deed. When the lease is on behalf of the minors the parents can swear affidavit.”

Above reproduced clause (4) and allegations from the show cause will show on their face, to have no connection. Petitioner while applying for conversion made a false statement on oath. That was good reason for State to refuse the conversion and, if provided by the rules, the forfeiture. However, the authority was not justified in determining the lease. No reason appears from impugned order regarding violation of any covenant of the lease, for its determination.

5. Impugned order is set aside and quashed.
6. The writ petition is disposed of.

(Arindam Sinha)
Judge

(S.K. Mishra)
Judge

Sks