

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 22065 of 2022

Alok Chandra Samantaray ***Petitioner***

Mr. Ramakanta Mohanty, Senior Advocate
being assisted by Mrs. Sumitra Mohanty, Advocate

-versus-

State of Odisha and others ***Opp. Parties***

Mr. Baibaswata Panigrahi,
Additional Standing Counsel
(Opposite Party Nos.1 to 4 and 7)

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
30.11.2022

Order No.

2. 1. This matter is taken up through Hybrid mode.
2. This matter was not in the cause list of the Bench today.
As similar matters at Sl. No.16 of the supplementary cause list have been disposed of today, on the prayer of learned counsel for the Petitioner, this writ petition is taken up through Special List.
3. Petitioner in this writ petition seeks to assail the order dated 23rd July, 2021 (Annexure-1) passed by the Additional Commissioner, Additional Revisional Court, Bhubaneswar in OSS Revision Case No.817 of 2018 filed under Section 15(b) of the Odisha Survey and Settlement Act, 1958 (for short, 'the Act').
4. Mr. Mohanty, learned Senior Advocate appearing on behalf of the Petitioner submits that the Petitioner has been arrayed as Opposite Party No.1 to the Revision. Without serving any notice and without affording any opportunity of hearing to the Petitioner, the Revisional Court condoned the delay and disposed of the Revision on the same day, vide order dated 23rd

July, 2021 under Annexure-1. Thus, the impugned order is prima facie illegal and void for non-compliance of principles of natural justice. Hence, he prays for setting aside of the impugned order and remit the matter back to the Revisional Court for adjudication on the question of limitation afresh giving opportunity of hearing to the parties concerned.

5. Mr. Panigrahi, learned ASC submits that from the cause title of the impugned order, it appears that notices were issued to the parties, but there is no material on record to form a definite opinion that the Petitioner, who was Opposite Party No.1 in the Revision was, in fact, noticed.

6. Taking into consideration the rival contentions of the parties and on perusal of record, it appears that the Revision Petition was filed under Section 15(b) of the Act impleading the Petitioner as Opposite Party No.1. Mr. Mohanty, learned Senior Advocate for the Petitioner submits that the Petitioner was not served with any notice either on the limitation petition or on the Revision Petition at any time. Since the Petitioner alleges violation of principles of natural justice, he should be given another opportunity, as his right and title over the suit land is affected by virtue of the impugned order.

7. Accordingly, the writ petition is disposed of with a direction that in the event the Petitioner files an application for recall of the impugned order as at Annexure-1 within a period of three weeks hence along with certified copy of this order, the Revisional Court shall do well to consider the same by giving opportunity of hearing to the parties concerned.

8. Till disposal of such application, if filed within the time stipulated hereinabove, the impugned order under Annexure-1

shall be kept in abeyance, if the same is not given effect to in the meantime.

9. With the aforesaid observation and direction, the writ petition is disposed of.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge



s.s.satapathy