

IN THE HIGH COURT OF ORISSA AT CUTTACK
WP(C) NO.22300 OF 2022

Braja Behari Subudhi & ors.

....

Petitioners

Mr.B.Pradhan, Adv.

-versus-

State of Odisha & ors.

....

Opposite Party(s)

Mr.S.P.Panda, AGA

CORAM:
JUSTICE BISWANATH RATH

ORDER
20.10.2022

Order No.

3. 1. Heard learned counsel for the Parties.
2. Pursuant to the order of this Court dated 18.10.2022, Ms.Rumana Jafri, Tahasildar, Jatni appears before this Court in person. Ms.Madhusmita Nanda, Additional Tahasildar, Jatni, is also present. Both of them file their respective affidavits.
3. For the opinion of this Court, the Mutation Case never involves adjudication of any dispute. The only foundation sought to be in such proceeding whether the Application has foundation to such claim or not and dependent on the foundation may be if it is in shape of judgment and decree or registered instrument, the Authority may simply allow the Application leaving the Parties to find any controversy through appropriate courts. Even though lot of explanations have been submitted by both the Tahasildar and the

Additional Tahasildar, this Court is not satisfied as regard pendency of this nature of litigation for eleven years. It appears, the Tahasildar involved herein has joined hardly four months whereas the Additional Tahasildar, who is taking up the matter, has also joined for about one year back. There must be involvement of number of Tahasildars and/or Additional Tahasildars. Majority of the difficulties in non-disposal of the proceeding lies with their Predecessors for not taking up such issue in justified time.

4. In course of hearing, learned counsel for the Petitioners files an affidavit of Petitioner No.2 alleging that even though Petitioner No.2 was called for to attend the Office of the Additional Tahasildar through the R.I. and in spite of the fact the Petitioner attending to such case but there is no finality to the proceeding involved. An affidavit is also filed in Court today to that effect. There has been counter affidavit stating that there is no instruction or direction by the Additional Tahasildar for appearance of the Petitioner or Petitioners. For the allegation and counter allegation, this Court is not inclined to enter into any such controversy.

5. However, looking to the nature of relief sought for in the Writ Petition, there should not be any doubt that mutation proceeding could be pending after four months even. Further when the Mutation Case is based on Civil Court judgment & decree, there

should not be wastage of a minute time even except waiting for response from any contesting O.P. therein. In the event the Tahasildar or the Additional Tahasildar smells any controversy, their role being limited having no adjudicating power, the decision should be dependent only on the existing material. There is no scope for sitting over the Civil Court adjudication. In the fitness of things and looking to the nature of claim of the Mutation Case, this Court finds, such litigation is kept pending before the Tahasildar and the Additional Tahasildar for long period of eleven years.

6. While expressing its anxiety, however taking into consideration the recent joining of both the Officers in the Jatni Tahasil, this Court while letting both the Tahasildar, Jatni and Additional Tahasildar, Jatni hopes and expects, both the Officers will be careful enough in timely disposing of Mutation Cases involved coming on their Board and not allowing any such complain to this Court in future. While directing to serve copy of this order on all the District Magistrate & Collectors of all the districts for issuing necessary instruction to all the Tahasildars and Additional Tahasildars in their respective districts to find disposal of Mutation Cases within a reasonable time at least within a period of four months from the date of filing, this Court hopes and trusts, the

Tahasildars and the Additional Tahasildars shall ensure speedy disposal of such proceedings.

7. This Court disposing of the Writ Petition records the date of posting of Mutation Case, as undertaken by the Additional Tahasildar, Jatni, to 28.10.2022 and directs the Petitioners to either to attend the Mutation Case proceeding by themselves or through their Lawyer. Since the claim is based on the judgment and decree of the competent Civil Court, the Additional Tahasildar, Jatni is directed to enter into hearing involving the Mutation Case on the same date and further passing order at least within three working days thereafter. All the affidavits filed in Court be kept on Record. Personal appearance of the Officers is dispensed with.

8. A free copy of this order be supplied to Mr.Panda, learned A.G.A. for onward transmission to all the District Collectors of the State, who in turn shall issue necessary direction to the respective Tahasildars and Additional Tahasildars in their districts.

(Biswanath Rath)
Judge

M.K.Rout