

IN THE HIGH COURT OF ORISSA AT CUTTACK
WP(C) NO.28490 OF 2021

Chandrasekhar Samal

....

Petitioner

Mr.P.R.Sutar, Adv.

-versus-

Collector, Khurda & ors.

....

Opposite Party(s)

Mr.S.P.Panda,AGA

CORAM:
JUSTICE BISWANATH RATH

ORDER
17.10.2022

Order No.

5. 1. Heard learned counsel for the Parties.
2. This Writ Petition is filed seeking direction from this Court for compliance of the direction in Mutation Case No.22115/2016 disposed of on 10.9.2019 directing preparation of Record of Rights in a manner described therein.
3. Reading the mutation order even though it does not form part of the Brief, the Petitioner extended a copy of such order in course of argument and on perusal of the same, this Court finds, the foundation in the mutation order is the judgment and decree dated 9.1.2000 passed in T.S. No.279/1996. Instruction memo has been filed disclosing after coming to know the decree involving the aforesaid suit is passed in Lok Adalat and ex parte decree since involved an Application under Order 9 Rule 13 of C.P.C. was filed,

vide CMA No.261/2004, the CMA having been allowed, the suit was restored. It is claimed, immediately after filing of the Written Statement, when the case was posted, Plaintiff did not press the suit remaining absent on the date of call. Instruction memo further discloses, there has been dismissal of the suit for non-prosecution in the meantime. For there is already dismissal of the suit in the meantime, this Court finds no force in the submission of the learned counsel for the Petitioner for a direction for preparation of Record of Rights on the basis of decree in the meantime not existing. Instruction Memo filed in Court be kept on Record.

4. For this Court finding there is clear suppression of material facts in filing the Writ Petition, this Court cautions the Petitioner to refrain himself from filing such type of Writ Petition.

5. In the circumstance, the Writ Petition stands dismissed.

(Biswanath Rath)
Judge

M.K.Rout