

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 23321 OF 2019

Sridhar Nayak

Petitioner

Mr. Ramadev Baral, Advocate

-versus-

State of Odisha and others

.... Opp. Parties

Mr. Sarojananda Mishra,
Additional Government Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

18.05.2022

Order No.

3. 1. This matter is taken up through hybrid mode.
2. The grievance of the Petitioner in this writ petition is with regard to inaction of the Tahasildar, Vyasa Nagar-Opposite Party No.2 in supplying the certified copy of the final order passed in Mutation Case No.2101 of 2003.
3. It is submitted by Mr. Baral, learned counsel for the Petitioner that the Opposite Party No.3, namely, Kailash Chandra Parida in connivance with Tahasildar, Vyasa Nagar-Opposite Party No.2 managed to record the case land in his name in Mutation Case No.2101 of 2003 and the R.O.R. has already been prepared in his name in respect of Plot No.635 under Khata No.59 situated in mouza Uniti No.5, Nahaka in the district of Jajpur.
4. The Tahasildar, Vyasa Nagar has filed a counter affidavit, wherein it has been stated that since the case record of Mutation Case No.2101 of 2003 is not available in the record room, it could not be supplied to the Petitioner and it was intimated to the Petitioner on 17th May, 2019. On further enquiry, the Tahasildar, Vyasa Nagar could ascertain from the Sub-Registrar, Dollipur that

no transaction was found over Plot No.635 under Khata No.59 situated in mouza Nahaka, Jajpur Road during the period from 1st January, 1993 to 20th January, 2020. As such, the transaction basing upon which the Opposite Party No.3 managed to record the land in his name is not in existence. In view of the above, the Tahasildar, Vyasa Nagar had also requested the Sub-Collector, Jajpur to grant permission to file a *suo motu* appeal before the competent authority, which has not yet been granted.

5. In view of the above, Mr. Baral, learned counsel for the Petitioner submits that the Petitioner may be permitted to file an appeal on the information available in the counter affidavit filed by the Tahasildar, Vyasa Nagar in this writ petition, failing which he will be highly prejudiced as his right over the land in question will be taken away without following due procedure of law.

6. Mr. Mishra, learned Additional Government Advocate made his submission reiterating the aforesaid statement made in the counter affidavit.

7. Taking into consideration the submissions made by learned counsel for the parties, this Court is of the considered opinion that the right of the Petitioner over the land in question cannot be taken away without following due procedure of law and the Petitioner cannot go remediless in assailing the order passed in Mutation Case No.2101 of 2003. In one hand, the certified copy in Mutation Case No.2101 of 2003 is not being supplied to the Petitioner and on the other hand, the Sub-Collector, Jajpur is not granting permission to the Tahasildar, Vyasa Nagar to prefer an appeal against the order passed in the said mutation case.

8. Taking into consideration the peculiar facts and circumstances of the case, this Court grants liberty to the Petitioner to file an appeal before the Sub-Collector, Jajpur assailing the order in Mutation Case No.2101 of 2003. In the event such an appeal is filed within a period of three weeks hence enclosing the documents available with the Petitioner along with certified copy of this order, the Sub-Collector, Jajpur shall do well to accept the same and after making due enquiry, pass a reasoned order in accordance with law giving opportunity of hearing to the parties concerned.

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

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge

