

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 24127 of 2019

Shantibasa Sahoo and others* *Petitioner

Mr. Pabitra Kumar Nayak, Advocate

-versus-

***Additional Commissioner, Settlement
and Consolidation, Sambalpur and
others* *Opp. Parties***

Mr. Swayambhu Mishra,
Additional Standing Counsel
(For Opposite Party Nos.1 to 3)

**CORAM:
JUSTICE K.R. MOHAPATRA**

**ORDER
14.03.2022**

Order No.

3. 1. This matter is taken up through Hybrid mode.
2. 2. Petitioners in this writ petition pray for a direction to set aside the order dated 25.10.2013 (Annexure-4) passed by Additional Commissioner, Settlement and Consolidation, Sambalpur in Revision Case No.1540 of 2012 filed by the Opposite Party No.2 under Section 37(1) of the Odisha consolidation of Holdings and Prevention of Fragmentation of of Land Act, 1972 (for short, 'the Act').
3. 3. The sole contention of Mr. Nayak, learned counsel that although the Petitioners were impleaded as Opposite Party Nos. 2, 3 and 4 to the revision petition they were neither served with any notice nor were given opportunity of hearing. By virtue of the impugned order, the land recorded in their names was directed to be recorded in the name of Opposite Party No.2 herein. Hence, he prays for setting aside of the impugned order under Annexure-4 and remit the matter back to the revisional

Court for fresh adjudication giving them an opportunity of hearing.

4. Office note discloses that notice on Opposite Party No.3 returned un-served with the remark of the Postal Department, that '*not found hence retuned to sender*'. Neither AD nor un-served notice on Opposite Party No.2 is received back by this Court.

5. Taking into consideration the contentions raised by Mr. Nayak, learned counsel for the Petitioners and the order proposed to be passed, this Court, without awaiting for service of notice on Opposite Party Nos.2 and 3, proceeds with the matter.

6. Mr. Mishra, learned ASC submits that the revision petition was originally filed against Opposite Party No.3-Panchanan Mohananda, but subsequently present Petitioners were impleaded as Opposite Party Nos. 2, 3 and 4 and the order sheets of the revision case (Annexure-3 to the writ petition), reveal that no such order has been passed for impletion of Petitioners as Opposite Party Nos. 2, 3 and 4 to the revision petition. Further, there is no material on record to show that the land of the Petitioners was directed to be recorded in the name of Opposite Party No.2. Hence, the writ petition merits no consideration.

7. Taking into consideration the rival contentions of the parties and on perusal of record, it appears that originally the revision petition was filed only against present Opposite Party No.3-Panchanan Mohananda, but subsequently present Petitioners were stated to be impleaded as Opposite Party Nos. 2, 3 and 4 to the said revision. The order sheet does not disclose

as to when the present Petitioners were impleaded as Opposite Party Nos. 2, 3 and 4 to the revision petition (annexed as Annexure-2 to the writ petition). There is also no material on record to show that the land in question has been recorded in the name of the present Petitioners except a bald statement at paragraph-5 of the revision petition under Annexure-2.

8. So far as service of notice on the Petitioners herein, who were Opposite Party Nos. 2, 3 and 4 to the revision case, the same is an issue to be decided taking into consideration the materials available on record. The same cannot be adjudicated in this writ petition. Admittedly, present Petitioners have not filed any petition before the revisional Court for recall of the impugned order under Annexure-4 and to provide them an opportunity of hearing.

9. In view of the above, this Court is not in a position to adjudicate the issue raised by the Petitioners in this writ petition. However, if the Petitioners are so advised they may file a petition for recall of order dated 25.10.2013 (Annexure-4) passed by Additional Commissioner, Settlement and Consolidation, Sambalpur in Revision Case No.1540 of 2012 stating the grounds therein and in that event, the revisional Court may consider the same in accordance with law.

10. With the aforesaid observation, the writ petition is disposed of.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge