

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 33957 of 2021

Sajani Sahoo and others* *Petitioners

Mr.Prabhat Kumar Praharaj, Advocate

-versus-

Kailash Lenka and others* *Opp. Parties

Mr. Swayambhu Mishra,
Additional Standing Counsel
(For Opposite Party No.18)

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

**ORDER
25.02.2022**

Order No.

3. 1. This matter is taken up through Hybrid mode.
2. Petitioners in this writ petition pray for a direction to set aside order dated 13th January, 2021 (Annexure-7) passed by Additional Commissioner, Settlement and Consolidation, Board of Revenue, Odisha, Cuttack- Opposite Party No.18 in RP Case No.500of 2020.
3. It is submitted by Mr. Praharj, learned counsel for the Petitioners that although the Petitioners are residing at Bidyadharpur under Mancheswar Post Office in Choudwar the notices were issued in the address of Sriramnagar under Cuttack Sadar PS. Without serving any notice on the present Petitioners who were Opposite Parties to the revision petition, the Additional Commissioner condoned the delay of more than 47 years and passed the impugned order under Annexure-7. It is his submission that had the Petitioners been given opportunity of hearing they could have effectively defended their case.

Hence, he prays for setting aside of the impugned order on the ground of non-compliance of principles of natural justice is concerned.

4. Mr. Mishra, learned ASC submits that although the Petitioners alleged non-service of notice is a factual dispute, veracity of which can be ascertained by scrutinizing the record available before the Additional Commissioner. He further submits that in view of the ratio decided in the case of ***Smt. Bijaya Chatterjee -v- Commissioner, Land Records and Settlement, Orissa and Others*** reported in 2000 (II) OLR 349, the Additional Commissioner has the power to recall its own order, if he finds that notices were not duly served on the Petitioners, as alleged. On the other hand, the order sheets annexed to the writ petition as Annexure-7 series, discloses that the notice was duly served on the Opposite Parties (petitioners herein). Hence, he prays for dismissal of the writ petition, as not maintainable.

5. In view of the submissions made by learned counsel for the parties, this Court is of the considered opinion that the grievance made by the Petitioners requires factual adjudication by scrutinizing the records available before the Additional Commissioner-Opposite Party No.18. Hence, no purpose will be served by issuing notice to Opposite Parties and keeping the matter pending here for their response.

6. In view of the above, this Court, without expressing any opinion on the merit of the case of the Petitioners, disposes of the writ petition with a direction that in the event the Petitioners make an application before Additional Commissioner, Settlement and Consolidation, Cuttack-Opposite Party No.18

for recall of orders dated 16th December, 2020 and 13th January, 2021 passed in RP Case No.500 of 2020 stating the grounds therein, within a period of two weeks hence along with certified copy of this order, the Additional Commissioner-Opposite Party No.18 shall do well to consider the same and pass a reasoned order thereon giving opportunity of hearing to the parties concerned.

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

(K.R. Mohapatra)
Judge



s.s.satapathy