

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.29329 of 2022

Gouribala Nayak

.... Petitioner(s)

**Mr. P.Ku. Behera,
Advocate**

-versus-

State of Odisha & Ors.

.... Opposite Party(s)

**Mr. U.K. Sahoo,
Addl. Standing Counsel**

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
18.11.2022**

Order No.

03.

1. Heard the submission of learned counsel for Petitioner and the learned State Counsel.

2. This Writ Petition involves the following prayer:-

“Therefore, it is respectfully prayed that this Hon’ble Court may graciously be pleased to admit this Writ application and after hearing the counsel of both side may be pleased to set aside the order dated 30.11.2021 passed by the Learned Addl. Tahasildar, Ghasipura in Mutation Case No.2170/2021 in the district of Keonjhar as per Annexure-3 for the ends of Justice;

It is further prayed that this Hon’ble Court may be pleased to direct any other appropriate direction 9s) or pass any other suitable orders or pass any other appropriate writ / writs as this Hon’ble Court may deem fit just and proper;”

3. In course of hearing of the matter learned counsel for Petitioner relies on the judgment of this Court in W.P.(C) No.19001 of 2022 on 12.09.2022.

4. Learned State Counsel finding the case at hand also involving consideration of a mutation case in the district of Keonjhar, has also no scope to object the claim of the Petitioner.

5. Undisputedly this Writ Petition involves an allegation that the registering authority declines to register the application on the premises of no probate involving a 'WILL' involved therein. Dispute relates to Keonjhar District. This Court in deciding similar matters involving Keonjhar District more particularly in disposal of W.P.(C) No.19001 of 2022 has already come to hold that there is no necessity to probate of 'WILL' in the whole district of Keonjhar.

In the circumstance, this Court finds, the impugned order at Annexure-3 in Mutation Case No.2170 of 2021 is not sustainable in the eye of. Accordingly, this Court interfering in the impugned order at Annexure-3, sets aside the same and remits the matter back to the competent authority for re-hearing of the Mutation Application and taking a lawful decision on the same without insisting on the aspect of probate of 'WILL'.

6. The Mutation authority shall do well in disposing of the mutation proceeding afresh within a period of three weeks from the date of production of a certified copy of this order alongwith copy of the judgment in W.P.(C) No.19001 of 2022 by the Petitioner.

7. The Writ Petition succeeds to the extent indicated hereinabove.

(Biswanath Rath)
Judge