

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.35411 of 2021

Laxmidhara Guru and others ***Petitioners***
Mr. Bijaya Kumar Routray, Advocate
-versus-
Surasen Nayak ***Opp. Party***
Mr.Dillip Kumar Mishra,
Additional Government Advocate

CORAM:
JUSTICE K.R.MOHAPATRA

ORDER

07.02.2022

Order No.

- 02.
1. This matter is taken up through hybrid mode.
 2. The Petitioners in this writ petition seek to assail the order dated 25th November, 2020 (Annexure-4) passed by the Joint Commissioner, Settlement & Consolidation, Odisha, Cuttack in R.P. Case No.686 of 2017 filed under Section 15(b) of the Orissa Survey & Settlement Act, 1958 (for short 'the Act').
 3. Mr. Routray, learned counsel for the Petitioners in addition to his submission on merit of the writ petition made a submission that although the Petitioners, who were Opposite Parties in the said revision petition were duly noticed, but they could not present themselves on 25th November, 2020 when the matter was called on due to restrictions imposed by the Government of Odisha for resurgence of COVID-19. However, learned counsel for the Petitioner was present. The revisional court without realizing the difficulty of the Opposite Parties and restrictions imposed by the State Government, heard the matter

and reserved the matter for delivery of orders. Although the impugned order was passed on 25th November, 2020, the present Petitioners were unaware of the same as the matter was heard behind their back. On enquiry, when they learnt that the revision petition has already been disposed of, they have approached this Court by filing this writ petition. In view of the above, he submits that the impugned order may be set aside and the matter may be remitted back to the revisional court for fresh adjudication giving opportunity of hearing to the parties concerned.

4. Mr. Mishra, learned Additional Government Advocate submits that the Petitioners, who were Opposite Parties before the revisional court, were aware of the proceedings and were participating in the said proceedings. On 25th November, 2020 when the matter was posted for hearing, they did not appear. Thus, the Commissioner has committed no error in hearing the matter on that date and passing the impugned order.

5. Taking into consideration the submissions made by learned counsel for the parties, this Court is of the considered opinion that if the Petitioners are not given reasonable opportunity of hearing before the revisional court/authority, they should have filed appropriate application before the revisional authority, before approaching this Court.

6. In view of the above, this Court without expressing any opinion on the merits of the case of the Petitioners, disposes of the writ petition with a direction that in the event the Petitioners file an application for recall of the order 25th November, 2020 (Annexure-4) passed by the Joint Commissioner, Settlement & Consolidation, Odisha, Cuttack in R.P. Case No.686 of 2017

within a period of two weeks hence along with certified copy of this order, the Joint Commissioner shall accept the same and adjudicate the matter giving opportunity of hearing to the parties concerned by passing a reasoned order thereon in accordance with law.

7. Certified copy of impugned order of Annexure-1 and the original R.O.R. shall be returned to learned counsel for the Petitioners on substitution of attested photocopy thereof.

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

(K.R. Mohapatra)
Judge



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