

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.30109 of 2022

(Through Hybrid mode)

Ram Barik @ Ramchandra Barik

Petitioner

Ms. Laxmi Sharma, Advocate

-versus-

State of Odisha and others

Opposite Parties

Mr. A. K. Sharma, AGA

CORAM: JUSTICE ARINDAM SINHA

ORDER

16.11.2022

Order No.

01. 1. Ms. Sharma, learned advocate appears on behalf of petitioner and submits, her client's mother died and he applied for legal heir certificate. By impugned communication dated 27th October, 2022 the certificate was not issued on allegation that her client belongs to native of Parlakhemundi and staying in present address, which is Government land. Hence, details regarding legal heir could not be ascertained from present place of residence.
2. Mr. Sharma, learned advocate, Additional Government Advocate appears on behalf of State and prays for adjournment to obtain instructions.
3. On query from Court Ms. Sharma draws attention to the death certificate. It says petitioner's mother died on 5th December, 2004

and permanent address given is the same as petitioner's. In view thereof a closer look at remarks in impugned communication reveals that the authority made inquiry leading up to Parlakhemundi and found petitioner is native of that place. The authority found further that petitioner's present address shows he is staying in Government land.

4. Application for legal heir certificate is to be made as per prescribed form. On query from Court Mr. Sharma hands up the format. Perusal of the form does not indicate requirement to disclose native place.

5. Present and permanent address are required to be given, amongst other particulars. Documents to be attached have also been stated. Perusal of the writ petition shows that requisitions on particulars of address and documents stood complied with by petitioner.

6. It appears the authority could make such enquiry as to trace out native place of petitioner, in a case where his mother died on 5th December, 2004 (almost 18th years ago) at the place petitioner is presently residing in. That is sufficient for the address to be accepted as permanent residence of petitioner. The authority has gone on to further enquire and allege that petitioner's present address is Government land. Those are the reasons for rejection of

the application. The reasons appear to be wholly unconnected with the requirements in the form, for obtaining legal heir certificate.

7. Impugned order is set aside and quashed. Opposite party no.2 will forthwith issue legal heir certificate to petitioner, within two weeks of communication.

8. Ms. Sharma prays for costs. Court thinks fit, instead of directing payment of costs, to direct petitioner to communicate this order to opposite party no.1 for taking notice of the manner, in which the application for legal heir certificate was dealt with by opposite party no.2 and take such action as may be deemed fit and proper by that office.

9. The writ petition is disposed of.

(Arindam Sinha)
Judge

Prasant