

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 35945 of 2021

Ramesh Pandey

....

Petitioner

Mr.Subhendu Kumar Nayak, Advocate

-versus-

***The Additional Commissioner,
Consolidation and Settlement,
Sambalpur and others***

....

Opp. Parties

Mr. Dilip Kumar Mishra,
Additional Government Advocate

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

**ORDER
13.04.2022**

Order No.

2.
 1. This matter is taken up through hybrid mode.
 2. Petitioner in this writ petition seeks to assail the order dated 17th February, 2021 (Annexure-4) passed in RP Case No.2008 of 2017, whereby learned Additional Commissioner, Consolidation and Settlement, Sambalpur-Opposite Party No.1 allowed the revision filed by Opposite Party No.2 under Section 15(b) of the Odisha Survey and Settlement Act, 1958 (for short 'the Act')
 3. Mr. Nayak, learned counsel for the Petitioner submits that the Petitioner is in possession over the land in question by virtue of oral gift made by the ancestor of Opposite Party No.2- Sadananda Mali. The Amin taking into consideration the oral gift deed as well as his long possession over the land in question for more than 12 years, has recommended for

recording of the land in his name. The donor had also appeared before the Settlement Authority and given consent for recording of the land in favour of the Petitioner on the basis of the oral gift in favour of the ancestor of the present Petitioner. The Commissioner failed to appreciate the same by disapproving the report of the Amin that the Petitioner possesses the land in question more than 12 years and is in peaceful possession by virtue of oral gift and that he has become an occupancy raiyat over the land in question, allowed the claim of Opposite Party No.2. Hence, this writ petition has been filed.

4. Mr. Mishra, learned AGA submits that neither the Settlement Authority has the power to consider the issue of adverse possession nor the oral gift alleged to have been made by the ancestor of Opposite Party No.2 in favour of ancestors of the Petitioner confers any right on him. Hence, the Commissioner has committed no error in passing the impugned order under Annexure-4. As such, the writ petition is devoid of any merit.

5. Taking into consideration the submissions made by learned counsel for the parties and on perusal of the impugned order under Annexure-4, it appears that ancestors of Opposite Party No.2 had allegedly made an oral gift in favour of the ancestors of the Petitioner. The Petitioner is claiming right over the land by virtue of such oral gift and long possession over the same, i.e., more than 12 years. Oral gift does not confer any right on a party. Further, Settlement Authority does not have any jurisdiction to decide the issue of

adverse possession. In that view of the matter, I find no infirmity in the impugned order under Annexure-4.

6. Accordingly, the writ petition stands dismissed being devoid of any merit.

(K.R. Mohapatra)
Judge



s.s.satapathy