

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 37015 OF 2020

Ranjan Kumar Mohanty

....

Petitioner

Mr. Bhagaban Behera, Advocate

-versus-

State of Odisha and others

....

Opp. Parties

Mr. Swayambhu Mishra,

Additional Standing Counsel

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

21.02.2022

Order No.

1. This matter is taken up through hybrid mode.
2. This writ petition has been filed assailing the order dated 15th July, 2013 (Annexure-1) passed by Assistant Settlement Officer, Sampur, Rental Colony, Bhubaneswar-Opposite Party No. 5 in *Suo motu* Rent Objection Case No. 6695 of 2013.
3. Mr. Behera, learned counsel for the Petitioner submits that one A.Ladukeswar Pradhan being ex-army personnel was settled with an Area of Ac. 2.650 dec. of land in W.L. Case No. 167 of 1996-67. Pursuant to direction of this Court in OJC No. 9449 of 1993, a Lease Resumption Case was also initiated against the lessee under Section 3(B) of Odisha Government Land Settlement Act, 1962. On enquiry, the lease resumption proceeding was dropped by the Tahasildar, Bhubaneswar; vide order dated 18th September, 2002 (Annexure-2). Subsequently, due to his legal necessity, the lessees sold the entire land to one Sudhakara Parida-Opposite Party No. 7 vide Registered Sale Deed No. 2061 dated 19th March, 1980. Thereafter, the Petitioner purchased an area of Ac. 0.100 dec. out of the said land from Opposite Party No.7 vide Registered Sale Deed No. 3616 dated 16th May, 1980 and was delivered with possession. The Petitioner after purchase, also

initiated mutation proceeding and the land has already been mutated in his name under Khata No. 224/77.

4. During settlement operation, draft R.O.R. was also published in the name of the Petitioner. Thus, the Petitioner was expecting that the final R.O.R. will be published in his name. However, at this juncture, the Opposite Party No. 5 initiated *suo motu* Rent Objection Case No. 6696 of 2013 under Section 21 of the Odisha Survey and Settlement Act, 1958 (for short, 'the Act') and directed the land to be recorded under Government Khata under '*Abadajogya Anabadi*' Status.

5. It is the submission of Mr. Behera, learned counsel for the Petitioner that Section 21 of the Act, requires the person, whose name has been recorded under the draft R.O.R., to be heard in the matter. From the impugned order Annexure-1, it does not appear that the Petitioner was not served with any notice. It is further submitted that since the Petitioner was not aware of the said notice, he could not prefer an appeal against the said order. However, the final R.O.R. under Section 12(B) of the Act, has not yet been published in Mouza-Sampur. Hence he prays for a direction to set aside the impugned order (Annexure-1) and remit the matter back to the Opposite Party No. 5 to adjudicate the matter afresh giving opportunity of hearing to the Petitioner.

6. Mr. Mishra, learned Additional Standing Counsel submits that the impugned order was passed in the year 2013 and no explanation has been offered by the Petitioner for such an inordinate delay. It is the submission that the Petitioner has a remedy of appeal under the Survey and Settlement Act, 1958 and Rules framed thereunder. Hence the writ petition is not maintainable. He, however, could not show any material from the impugned order with regard to service of notice on the Petitioner in the said proceeding.

7. On perusal of the impugned order, it is crystal clear that the Petitioner was not served with any notice before Annexure-1 was passed. Thus, the Petitioner had no occasion to know about the order passed under Annexure-1 and work out the remedy available under law within the stipulated time.

8. Taking into consideration the submissions made by the learned counsel for the parties and the fact that final R.O.R in respect of Sampur Mouza has not yet been published under Section 12(B) of the Act. This Court feels it proper to give an opportunity of hearing to the Petitioner before the Assistant Settlement officer to defend his case

9. In view of the above, this Court while setting aside the impugned order under Annexure-1 remits the matter back to the Assistant Settlement Officer, Rental Colony, Bhubaneswar-Opposite Party No. 5 (now functioning as Major Settlement Officer, Jobra, Cuttack) for adjudication afresh giving opportunity of hearing to the parties concerned. In order to avoid further delay in the matter, learned counsel for the Petitioner undertakes to intimate the Petitioner to appear before the Assistant Settlement Officer on 14th March, 2022 along with certified copy of this order to receive further instruction in the matter.

10. With the aforesaid observation and direction, this writ petition is disposed of.

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

(K.R. Mohapatra)
Judge