

IN THE HIGH COURT OF ORISSA AT CUTTACK

**W.P.(C) No. 32071 of 2022
(Through hybrid mode)**

Prafulla Chandra Padhi

....

Petitioner

Mr. Gopinath Mishra, Advocate

-versus-

***The Commissioner of Endowment,
BBSR and others***

....

Opposite Parties

Ms. P. Naidu, Advocate

CORAM:

JUSTICE ARINDAM SINHA

JUSTICE SANJAY KUMAR MISHRA

ORDER

08.12.2022

Order No.

2.

1. The disposed of writ petition has been listed under heading 'To be Mentioned' at instance of Miss Naidu, learned advocate appearing on behalf of the Commissioner. She submits, petitioner had made intervention application in the proceeding under section 30, Odisha Hindu Religious Endowments Act, 1951 and by impugned order same was rejected. She refers to order dated 7th December, 2022 and submits, the writ petition was thereby disposed of.

2. Text of order dated 7th December, 2022 is reproduced below.

“1. Mr. Mishra, learned advocate appears on behalf of petitioner and submits, impugned is order dated 23rd September, 2022 made by Court of the Commissioner, whereby his client’s petition dated 16th April, 2022 was rejected. He submits, the petition was for intervention in O.A. no.100 of 2020 (Sri Radhakrushna Mahaprabhu Bije and Smt. Prasanti Padhi and others), wherein one branch of Marfatdars had claimed nomination as hereditary trustees. His client represents another branch.

2. Ms. Naidu, learned advocate appears on behalf of the Commissioner and submits, section 74 in Odisha Hindu Religious Endowments Act, 1951 provides only for certain powers of a civil Court to the Commissioner. Hence, there should not be interference. 3. We accept submission made by Ms. Naidu. Petitioner may file separate cause within two weeks from date. We direct the Commissioner’s Court that in event, petitioner files separate Original Application (OA) within the time directed, it be tagged with OA no.100 of 2020 and dealt with analogously.

4. The writ petition is disposed of.”

Ms. Naidu submits, the original application to be filed by petitioner, was directed to be analogously heard with the pending section 30 proceeding because the latter is pending before the Commissioner. However petitioner is to file for section 41 proceeding before the Assistant Commissioner.

3. Mr. Mishra submits, rule 43 in Odisha Hindu Religious Endowments Rules, 1959 provides for applicability of the Code of Civil Procedure to proceedings under the Act.

4. In circumstances recorded above, order dated 7th December, 2022 is recalled.

5. By reason of application of the Code of Civil Procedure to proceedings before the Commissioner, there is no impediment on application of the procedure under order I rule 10(2) in the Code. Hence, impugned order is set aside and quashed. Petitioner is added as party to the section 30 proceeding. Petitioner will produce this order along with consolidated cause title before the Commissioner, for continuation of the proceeding with participation of petitioner.

6. The writ petition is again disposed of.

(Arindam Sinha)
Judge

(S.K. Mishra)
Judge

Sks