

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.37902 of 2021

Malati Mohapatra and others ***Petitioners***
Mr. Ajaya Kumar Nayak, Advocate
-versus-
Commissioner, Settlement and ***Opp. Parties***
Consolidation, Odisha, Cuttack
and others

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 common order dated 19th March, 2021 (Annexure-3) passed by the Additional Commissioner, Settlement & Consolidation, Odisha, Cuttack in R.C. Case No.235 of 2017 filed under Section 36 of the Odisha Consolidation of Holdings and Prevention of Fragmentation of Land Act, 1972 (for short 'the Act').
3. Mr. Nayak, learned counsel for the Petitioners submits that the revision was posted to 29th January, 2021 and learned counsel for the revision Petitioner was present. But, learned counsel for the Opposite Parties therein, who are present Petitioners in this writ petition, could not appear due to resurgence of COVID-19. The matter was posted to 5th February, 2021, which was never intimated to learned counsel for the Petitioners, who were Opposite Parties before the revisional court. In view of the above, the Petitioners could not defend their case before the revisional authority. Hence, he prays for setting aside the impugned order under Annexure-3 and

prays for a direction to the revisional authority to adjudicate the revision afresh giving opportunity of hearing to the parties concerned.

4. Mr. Mishra, learned Additional Government Advocate refuting such submission, submits that the date of posting of the case was known to the Petitioners and non-appearance of their counsel before the revisional court cannot be said to be a good cause for setting aside 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 were not afforded with reasonable opportunity of hearing before the revisional court/authority, they should have at the first instance approached the revisional court in that regard 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 dated 19th March, 2021 (Annexure-3) passed by the Additional Commissioner, Settlement & Consolidation, Odisha, Cuttack in R.C. Case No.235 of 2017 within a period of two weeks hence along with certified copy of this order, the revisional authority shall consider the same giving opportunity of hearing to the parties concerned and pass a reasoned order thereon in accordance with law.

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

(K.R. Mohapatra)
Judge

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