

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.32746 of 2022

(Through hybrid mode)

Sunil Kumar Jana & another

....

Petitioners

Mr. K.K. Rout, Advocate

-versus-

State of Odisha & others

....

Opposite Parties

*Mr. G.N. Rout, Advocate
Additional Standing Counsel*

CORAM:

JUSTICE ARINDAM SINHA

JUSTICE SANJAY KUMAR MISHRA

ORDER

07.12.2022

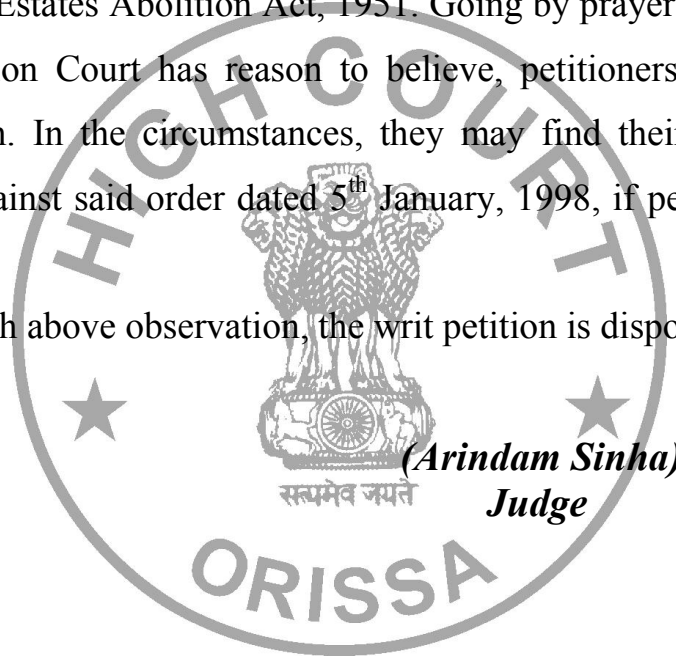
Order No.

01. 1. Mr. Rout, learned advocate appears on behalf of petitioners. He submits, his clients are in possession. Impugned is order dated 17th February, 2007 made by the Board of Revenue. The Board had pointed out that order dated 5th January, 1998 was against his clients and appeal therefrom did not lie to the Board but, to the Collector. Pursuant to such observation learned advocate for petitioners withdrew the appeal. He submits, petitioners' challenge is actually directed against said order dated 5th January, 1998, which could not have been passed in face of earlier order made by the Tahsildar.

2. Mr. Rout, learned advocate, Additional Standing Counsel appears on behalf of State and points out, petitioners are allegedly aggrieved by the order passed on 5th January, 1998. Even impugned order of the Board was passed as far back as on 17th February, 2017. The writ petition was presented on 30th November, 2022. It should be dismissed in limine. Mr. Rout in reply submits, earlier writ petition was filed in year 2017 but withdrawn with liberty to file afresh.

3. By order dated 5th January, 1998, the Tahsildar had directed for starting misc. case for taking over possession under section 5(h) of Orissa Estates Abolition Act, 1951. Going by prayer made in the writ petition Court has reason to believe, petitioners are still in possession. In the circumstances, they may find their remedy in appeal against said order dated 5th January, 1998, if permissible in law.

4. With above observation, the writ petition is disposed of.



(S.K. Mishra)
Judge

P.Pradhan