

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 39492 of 2021

Kamal Kumar Modi

....

Petitioner

Mr. Samir Kumar Mishra, Advocate

-versus-

State of Odisha and others

....

Opp. Parties

Mr. Dillip Kumar Mishra,

Additional Government Advocate

CORAM:

JUSTICE K.R.MOHAPATRA

ORDER

12.01.2022

Order No.

- 01.
1. This matter is taken up through video conferencing mode.
 2. The Petitioner in this writ petition seeks to assail the order dated 23rd August, 2018 (Annexure-3) passed by the Additional Tahasildar, Khunta in Mutation Case No.163 of 2017.
 3. Mr. Mishra, learned counsel for the Petitioner submits that the impugned order has been passed without serving any notice to the Petitioner. Hence, he could not know about the order passed in mutation case. Since the order has been passed without following principles of natural justice, this Court has jurisdiction to entertain this writ petition.
 4. In course of hearing, Mr. Mishra, learned counsel for the Petitioner submits that interest of justice will be best served, if the Petitioner files an appeal against the order impugned herein under Rule 42 of the Orissa Survey & Settlement Rules, 1962. He, therefore, prays for withdrawal of the writ petition to avail the statutory remedy.
 5. Considering such submission, this writ petition is disposed of as withdrawn.

6. It is made clear that in the event the Petitioner files an appeal within a period of two weeks hence along with petition for condonation of delay in filing the appeal, the appellate authority may take a liberal view in entertaining the petition for condonation of delay taking into consideration the pendency of the writ petition before this Court since 15th December, 2021 along with other grounds.

7. Certified copy of Annexure-3 shall be returned to learned counsel for the Petitioner on substitution of attested photocopy thereof.

8. As restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned Advocate in the manner prescribed vide Court's Notice No.4587 dated 25th March, 2020 modified by Notice No.4798 dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

(K.R. Mohapatra)
Judge

jm