

IN THE HIGH COURT OF ORISSA AT CUTTACK

RVWPET No.269 of 2021

Sushila Sahu

.....

Appellant

Mr. Sidheswar Rath, Adv.

-Versus-

State of Odisha & others

.....

Respondent

Mr.A.K. Nanda, AGA

CORAM:

JUSTICE S. TALAPATRA

JUSTICE B.P. ROUTRAY

I.A. No.256 of 2021

ORDER

07.07.2022

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. According to Stamps Reporter's report, there is no delay. Hence, this petition is disposed of with observation that the review petition is within time.

(S. Talapatra)
Judge

(B.P. Routray)
Judge

RVWPET No.269 of 2021

02.

1. Heard Mr. Sidheswar Rath, learned counsel appearing for the review petitioner. By means of this review petition, the Order dated 28.06.2021 delivered in WP (C) No.5737 of 2021 has been challenged. The review petitioner is the writ petitioner,

who by filing the writ petition, being WP (C) No.5737 of 2021, has claimed for allotment of a piece of land which was encroached by her husband and when the encroachment proceeding commenced against the said encroachment, her husband raised a plea that under the Government of India guidelines, since he (the husband of the writ petitioner) was a Jawan in Indian Army, he is entitled to 5 acres of land. But, no such land was allotted to him even. As such, the husband of the petitioner claimed before the Revenue Authorities to regularize that land which he has been possessing at that point of time, but that was denied.

2. That is the point of grievance in the writ petition. By the Order dated 28.06.2021, the writ petition has been dismissed, having observed that the records reveal that *those communal lands are recorded as Paninala, Jalasraya and Nala.*

3. *It is settled principle of law that the settlement of communal land cannot be settled in favour of any person unless there is a de-reservation process in respect of land reserved for the purpose of cremation and gochara etc..*

4. A natural stream or a Paninala can never be settled in favour of any person in any circumstances. It not only violates the principle of the governing settlement of Government land but it is against the nature and it may affect the environment. Having observed this, the writ petition was dismissed.

5. Now, the writ petitioner seeks review of that order. But, from the records, the writ petitioner could not show that there is *ex facie* legality or *error apparent on the face of the records.* Moreover, what has travelled through our mind is that on encroachment of the land, no citizen can ordinarily be allowed

to insist the Government to allot the said land in his favor. Of course, the Government in the Revenue Department is always at discretion to regularize the encroachment by way of adjustment.

6. The land upon which the petitioner is seeking regularization cannot be allotted for its very classification. Moreover, the encroacher cannot dictate the Government to allot the land. If the writ petitioner is entitled to allotment of land under any of the Government of India guidelines, the writ petitioner may apply accordingly and that will be decided by the Government according to its merit. We refrain to observe further.

7. The review petition being devoid of merit, stands dismissed.

8. Mr. Ajaya Kumar Nanda, learned Additional Government Advocate appears for the Respondents.

(S. Talapatra)
Judge

(B.P. Routray)
Judge



