

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 40031 of 2021

Pradeep Kumar Gajendra and others* *Petitioners

Mr. Ranjan Kumar Nayak, Advocate

-versus-

Sub-Collector, Bhubaneswar and others* *Opp. Parties

Mr. Dillip Kumar Mishra,
Additional Government Advocate
(Opposite Party Nos. 1 and 2)

**CORAM:
JUSTICE K.R. MOHAPATRA**

**ORDER
14.02.2022**

Order No.

2. 1. This matter is taken up through Hybrid mode.
2. 2. Grievance of the Petitioners in this writ petition is with regard to inaction of Sub-Collector, Bhubaneswar-Opposite Party No.1 in accepting the petition intended to be filed under Rule 43 of Odisha Survey and Settlement Rules, 1962 (for short, 'Rules') along with a petition for condonation of delay and interim order.
3. 3. It is submitted by Mr. Nayak, learned counsel for the Petitioners that assailing the order passed by Additional Tahasildar, Bhubaneswar in Mutation Case No.19548 of 2013, the Opposite Party No.3 Mouzi Gajendra filed Mutation Appeal No.258 of 2018 before the Sub-Collector, Bhubaneswar. Neither any notice in limitation matter nor appeal was ever served on the Petitioners, who were the respondents in the said appeal. However, the Sub-Collector, Bhubaneswar, allowed the appeal ex parte vide order dated 30th January, 2020 (Annexure-1) and the case record was consigned to the Tahasildar, Bhubaneswar to take up correction in

ROR pertaining to Khata No.731/1550 relating to village Lingipur by taking it to its pre-corrected position. When the Petitioners came to know about the order under Annexure-1, they intended to file an application under Rule 43 of the Rules along with a petition for condonation of delay and interim protection, but for the reasons best known, the Sub-Collector, Bhubaneswar is not accepting the same for which the Petitioners are highly prejudiced. Thus, finding no other alternative, the Petitioners have filed the present writ petition.

4. Mr. Mishra, learned Additional Government Advocate submits that he has no instruction in the matter. However, if the Petitioners intend to file an application under Rule 43 of the Rules, the Sub-Collector, Bhubaneswar cannot refuse to accept the same.

5. Taking into consideration the rival contentions of the parties, this Court without expressing any opinion on the merits of the case, disposes of the writ petition with a direction that in the event the Petitioners file an application under Rule 43 of the Rules along with a petition for condonation of delay and interim protection, if any, within a period of two weeks hence enclosing certified copy of this order, the Sub-Collector, Bhubaneswar-Opposite Party No.1 shall accept the same, register the appeal as well as the petition for condonation of delay and interim protection, if any, and adjudicate the matter on its own merit giving opportunity of hearing to the parties concerned.

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

(K.R. Mohapatra)
Judge