

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 40033 of 2021

Pradeep Kumar Gajendra and others* *Petitioners

Mr. Ranjan Kumar Nayak, Advocate

-versus-

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

Mr. S.N. Mishra,
Additional Government Advocate
(Opposite Party Nos. 1 and 2)

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

**ORDER
10.02.2022**

Order No.

1. This matter is taken up through Hybrid mode.
2. Grievance of the Petitioner 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. It is submitted by Mr. Nayak, learned counsel for the Petitioner that assailing the order passed by Additional Tahasildar, Bhubaneswar in Mutation Case No.3653 of 2012, the Opposite Party No.3 Mouzi Gajendra filed Mutation Appeal No.259 of 2018 before the Sub-Collector, Bhubaneswar. Neither any notice in limitation matter nor appeal was ever served on the Petitioner, who was the sole respondent in the said appeal. However, the Sub-Collector, Bhubaneswar, allowed the appeal ex parte vide order dated 13th March, 2020

(Annexure-1) and the case record was consigned to the Tahasildar, Bhubaneswar to take up correction in ROR pertaining to Khata No.417/2358 relating to village Sisupal by taking it to its pre-corrected position. When the Petitioner came to know about the order under Annexure-1, he 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 Petitioner is highly prejudiced. Thus, finding no other alternative, he filed the present writ petition.

4. Mr. Mishra, learned AGA submits that he has no instruction in the matter. However, if the Petitioner intends 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 Petitioner files 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 shall accept the same, registered 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.

s.s.satapathy

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge

