IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.43067 of 2023

Artatrana Pradhan .... Petitioner

Mr. S. P. Mishra, Advocate

-Versus-

State of Odisha and another .... Opposite Parties

Mr. P.K. Ray, AGA

CORAM:
MR. JUSTICE R.K. PATTANAIK

ORDER

Order No. 18.12.2024

03. 1. Heard Mr. Mishra, learned counsel for the petitioner and Mr. Ray, learned AGA for the State-opposite parties.

2. Instant writ petition is filed by the petitioner challenging the impugned order dated 5th July, 2023 under Annexure-7 passed in connection with Misc. Case No.24 of 2023 by opposite party No.4 and further to direct the opposite parties to record the schedule land in her favour within a stipulated period.

3. Mr. Mishra, learned counsel for the petitioner submits that the petitioner acquired the interest in respect of lease land from the lessee in whose favour the lease was sanctioned and while claiming so, he refers to Annexure-2. It is submitted that such sanction of the lease was considered and confirmed with respect to a proceeding in W.L. Case No.410 of 1978 pursuant to order under Annexure-2 in Lease Revision Case No.206 of 1981. It is submitted that later to the sale deed executed in 2006 as per Annexure-3, a Parcha was issued in favour of the petitioner. It is contended that against the order of learned Assistant Settlement Officer (ASO) in Rent Case No.7765 of

2013 and batch of matters, a direction was issued as per Annexure-5 by this Court while disposing of W.P.(C) No.4283 of 2014 with remand of the said cases for disposal providing opportunity of hearing to him as well as others. The further contention is that the schedule land has not been settled with the petitioner though it was allowed in favour of one Subasini Panda and while stating so, Annexure-8 series is referred to. The plea of the petitioner is that the learned ASO should have allowed the settlement in view of the sale deed under Annexure-3, which has been validly executed by the vendor. Referring to Annexure-7, it is lastly submitted that when the proceeding was pending at the stage of enquiry report submitted by the Court Amin, which was received on 3rd July, 2023 and thereafter, without a copy of the same being supplied to the petitioner, the impugned order dated 5th July, 2023 was passed. It is stated that neither the report was confronted to the petitioner nor the relevant documents produced by him were taken into account while disposing of Misc. Case No.24 of 2023, hence, therefore, the impugned order under Annexure-7 is not tenable in law and thus, is liable to be set aside in the interest of justice with consequential directions issued.

4. Recorded the submission of Mr. Ray, learned AGA for the State and according to him, opposite party No.4 did not commit any error or illegality while passing the impugned order under Annexure-7 which was considering the Amin's report and for the fact that the proceeding has already been disposed of and rejected vide order dated 5th July, 2023. In response, Mr. Mishra, learned counsel for the petitioner said that the Rent Cases were set aside by the Court's order under Annexure-5, the fact which was lost sight. Apart from the above, it is submitted that the Amin's report ought to have been supplied to the petitioner and considering the

documents produced by him, the order should have been passed as per and in accordance with law.

5. Perused the order-sheets as at Annexure-7 including the impugned order dated 5th July, 2023. In fact, from the order dated 12th June, 2023, it appears that opposite party No.4 had directed the Court's Amin to submit the report, which was complied with on 3rd July, 2023 and shortly thereafter, on 5th July, 2023, the impugned order under Annexure-7 was passed. It is not borne out of the record nor from the order dated 3rd July, 2023 and from the impugned order dated 5th July, 2023, a copy of the Amin's report was ever served on the petitioner and no discussion has been held by opposite party No.4 with respect to the documents relied upon. The petitioner is claiming interest over the schedule land, which is based on the sale deed executed in the year 2006. In fact, the proceeding was disposed of on the premise that the application received from the petitioner had already been rejected. However, the fact that the order dated 15th July, 2023 having been set aside with the order under Annexure-5, opposite party No.4 should have considered the case of the petitioner afresh taking into account the documents relied upon by him. Not only the report of the Amin was not supplied to the petitioner but also there has been no discussion by opposite party No.4 considering the documents produced, inasmuch as, there has been no decision on merit on the plea advanced.

6. The Court, considering the grounds stated and for the reasons narrated above, is of the view that the impugned order dated 5th July, 2023 under Annexure-7 since has not been passed on merit should be set aside with the proceeding restored to the file for a decision. In other words, the Court is of the conclusion that

the plea of the petitioner, which is rested on the sale deed as per Annexure-3 and confirmation of the lease by the order in Lease Revision Case No.206 of 1981 and subsequent acquisition of interest is required to be examined by opposite party No.4 in compliance of the order under Annexure-5. Hence, therefore, the Court finally concludes that the matter needs reconsideration with a remand after the impugned order under Annexure-7 being set aside.

7. Hence, it is ordered.

8. In the result, the writ petition stands allowed followed by the impugned order under Annexure-7 set aside with restoration of the proceeding in Misc. Case No.24 of 2023 for a decision of opposite party No.4 as per and in accordance with law at the earliest preferably within a period of eight weeks from the date of receipt of a copy of the order providing reasonable opportunity of hearing to the petitioner considering the plea advanced and regard being had to the settlement as per Annexure-8 series.

9. Issue urgent certified copy of the order as per rules.

(R.K. Pattanaik)
Judge

TUDU

Signature Not Verified
Digitally Signed
Signed by: THAKURDAS TUDU
Designation: Sr. Stenographer
Reason: Authentication
Location: OHC,CTC
Date: 19-Dec-2024 19:38:08