IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 15580 of 2024
CNR No. ODHC010464072024

W.P.(C) No. 4882 of 2025
CNR No. ODHC010108052025

W.P.(C) No. 4587 of 2025
CNR No. ODHC010100042025

CONTC No. 4156 of 2023
CNR No. ODHC010485042023

W.P.(C) No. 26899 of 2017
CNR No. ODHC010437642017

[Applications under Articles 226 & 227 of the Constitution of India and Section 12 of the Contempt of Court Act, 1971]

W.P.(C) No. 15580 of 2024

Susila Das ..... Petitioner

-Versus-

State Of Odisha & Ors. ..... Opposite Party

W.P.(C) No. 4882 of 2025

Susila Das ..... Petitioner

-Versus-

State Of Odisha & Ors. ..... Opposite Party

W.P.(C) No. 4587 of 2025

State Of Odisha & Ors. ..... Petitioner

-Versus-

Sk. Madari & Ors. ..... Opposite Party

CONTC No. 4156 of 2023

Sk. Madari ..... Petitioner

-Versus-

Sankalp Swastik Sahoo,
Tahasildar, Barang ..... Opposite Party

W.P.(C) No. 26899 of 2017

Susila Das ..... Petitioner

-Versus-

State Of Odisha & Ors. ..... Opposite Party

For Petitioners : Mr. R.N Biswal, S.K. Mohanty, S.B. Sahoo, D, Parida, R. Moharana, A. Biswal, S. Samant, A. Pandia, & D.C. Parida, Advocate

Mr. L. Samantray, Sr. Advocate with Mr. A. K Sarangi, Advocate (in Contempt Petition)

For Opp. Party : Mr. G. Mohanty, Standing Counsel

Mr. L. Samantray, Sr. Advocate with Mr. A. K Sarangi, Advocate (in Writ Petitions)

CORAM:

JUSTICE SASHIKANTA MISHRA

JUDGMENT
06.11.2026

SASHIKANTA MISHRA, J. Since W.P.(C) Nos. 26899 of 2017, 15580 of 2024, 4882 of 2025 and 4587 of 2025 along with CONTC No. 4156 of 2023, arise out of interrelated disputes concerning the land situated at Mouza Kurunti and involve proceedings under the OEA Act, 1951 and the OCH & PFL Act, 1972, they were heard analogously. However, W.P.(C) No. 26899 of 2017 challenges a distinct order dated 06.08.2016 passed in OEA R.C. Case No. 08 of 2012 under Section 38-B of the OEA Act. As the adjudication of the said writ petition is not necessary for deciding the issues arising in the remaining matters, it is kept aside for separate consideration. The present common judgment, therefore, disposes of W.P.(C) Nos. 15580 of 2024, 4882 of 2025 and 4587 of 2025 along with CONTC No. 4156 of 2023.

FACTS

2. The dispute arises out of competing claims over land situated at Mouza Kurunti under Baranga Tahasil of Cuttack district. The petitioners in W.P.(C) Nos. 15580 of 2024 and 4882 of 2025 claim through their predecessor, Dhobani Das, on the basis of a *Chirasthayi Patta* dated 15.04.1932, stated to have

been granted by the erstwhile intermediary, Choudhury Basudev Das and others. The rival claims have given rise to proceedings before the consolidation and revenue authorities and this Court.

3. The land was recorded in the earlier settlement under M.S. Khata No. 439, Plot No. 1149, measuring Ac.24.90, as *Abada Jogya Anabadi*. Dhobani Das's claim was also considered in Vesting Case No. 221 of 1974, wherein an order dated 23.06.1980 is stated to have been passed pursuant to G.O. No. 14399 dated 02.03.1964. The parties, however, dispute the legal effect of the proceedings and the extent to which any right arising therefrom could be recognised in the subsequent ROR.

4. During the consolidation operation, disputes arose over the recording of the land and the rival claims. In Remand Appeal Case No. 92 of 1994, the Consolidation Officer, by order dated 30.07.2001, allowed Dhobani Das's claim to the extent of Ac.10.43. The order was confirmed by the appellate authority on 29.04.2004, followed by further revision proceedings.

5. Sk. Madari, the petitioner in CONTC No. 4156 of 2023, claims under a lease granted in Lease Case No. 557 of 1978 in respect of Ac.1.50 out of Sabik Plot No. 1149, Khata No. 439. On that basis, he initiated R.C. Case No. 182 of 2013 under Section

37(1) of the OCH & PFL Act. His claim was allowed by order dated 18.07.2014, directing correction of the ROR in his favour. The recall application was rejected on 01.09.2017. In W.P.(C) No. 2269 of 2018, this Court, by order dated 04.03.2020, remitted the matter for *de novo* hearing, directing the successor-in-interest of Dhobani Das to establish the claim of heirship.

6. On remand, the Additional Commissioner, Settlement and Consolidation, by order dated 09.07.2021 in R.C. Case No. 182 of 2013, again allowed Sk. Madari's claim and directed the Tahasildar, Barang, to correct the Hal ROR in respect of Hal Plot No. 949 (part), measuring Ac.1.50, on the basis of the lease relating to Sabik Plot No. 1149 (part), Khata No. 439.

7. The order dated 09.07.2021 was challenged in W.P.(C) No. 38246 of 2021. By judgment dated 19.09.2022, this Court remitted the matter for fresh hearing, directing the parties to appear on 29.09.2022 and the proceeding to be concluded within two months from their appearance. The Court also directed the petitioners to pay cost of Rs.15,000 to Sk. Madari. Subsequently, by order dated 11.11.2022 in R.C. Case No. 182 of 2013, the Additional Commissioner, citing non-payment of costs and

failure of the concerned parties to appear, upheld the earlier order dated 09.07.2021.

8. The petitioners thereafter sought restoration through Misc. Case No. 1 of 2023 arising out of R.C. Case No. 182 of 2013, purportedly on the basis of leave granted by this Court by order dated 29.11.2021. The application was allowed; however, by order dated 03.05.2024, the authority maintained its earlier order dated 11.11.2022.

9. Meanwhile, Sk. Madari filed W.P.(C) No. 3812 of 2023 seeking implementation of the order dated 09.07.2021. By order dated 13.02.2023, this Court directed the Tahasildar, Barang, to work out the direction contained at page 10 of the brief in R.C. Case No. 182 of 2013 within one month of communication of the certified copy, provided there was no further challenge to the order or interim order staying its operation by any court.

10. Alleging non-compliance with the order dated 13.02.2023, Sk. Madari instituted CONTC No. 4156 of 2023 against the Tahasildar, Barang. The opposite party filed a show-cause affidavit denying wilful disobedience and explaining the steps taken in view of the subsequent developments in the proceedings before the Commissioner.

11. In order to be precise, W.P.(C) No. 15580 of 2024 has been filed by the claimants through Dhobani Das, challenging the orders dated 11.11.2022 and 03.05.2024 passed in R.C. Case No. 182 of 2013 and the connected proceedings. W.P.(C) No. 4882 of 2025 raises a challenge to the maintainability and legality of the proceeding initiated under Section 37(1) of the OCH & PFL Act. W.P.(C) No. 4587 of 2025 has been filed by the State of Odisha challenging the order dated 09.07.2021 passed in R.C. Case No. 182 of 2013.

SUBMISSIONS

12. Heard Mr. R.N Biswal, learned counsel for the petitioners in WP(C) Nos. 26899 of 2017, 15580 of 2024 and 4882 of 2025, Mr. L. Samantray, learned Senior Counsel with Mr. A.K Sarangi, learned counsel for the contempt petitioner and Mr. G. Mohanty, learned Standing Counsel for the State.

13. As regards the challenge raised in the writ petitions, Mr. Samantray submits that the claim of Sk. Madari has already been considered by the competent authority but the direction for correction of the ROR has not been implemented. He therefore, opposes the challenge to the subsequent proceedings and submits that the relief sought by the contempt petitioner ought

not be defeated by the objections raised by the rival claimants. He also raises an objection as to the maintainability of W.P.(C) Nos. 15580 of 2024 and 4882 of 2025, arguing that the reliefs sought in the two writ petitions are identical. He submits that the petitioners cannot maintain separate writ proceedings seeking substantially the same relief in relation to R.C. Case No. 182 of 2013. In so far as the Contempt application is concerned, Mr. Samantray would argue that despite the order dated 13.02.2023 passed by this Court in W.P.(C) No. 3812 of 2023, the Tahasildar has failed to carry out the direction issued therein. He submits that the order dated 03.05.2024 passed in R.C. Case No. 182 of 2013 has maintained the earlier order dated 11.11.2022 which actually upheld the order dated 09.07.2021 and as such no impediment remains for implementation of the direction sought by the contempt petitioner. He, therefore, submits that the continued failure to correct the ROR warrants action in the contempt application.

14. Per Contra, Mr. Biswal submits that the order dated 09.07.2021 passed in R.C. Case No. 182 of 2013 had already been set aside in spirit by this Court in W.P.(C) No. 38246 of 2021 by judgment dated 19.09.2022 as the result in the aforesaid writ

petition records that the writ petition succeeded and the matter was remanded for *de novo* hearing. Therefore, according to him, the Additional Commissioner could not have upheld his earlier order by the subsequent order dated 11.11.2022. He also submits that the subsequent order dated 03.05.2024, insofar as it maintains the earlier order, suffers from the same legal infirmity. Mr. Biswal also alleges that the order dated 13.02.2023 in W.P.(C) No. 3812 of 2023, from which the present contempt proceeding arises, was passed because the petitioner therein suppressed material facts relating to the proceedings in R.C. Case No. 182 of 2013, thereby misleading this Court. In reply to the objection raised by Mr. Samantray regarding the maintainability of the writ petitions, Mr. Biswal submits that W.P.(C) Nos. 15580 of 2024 and 4882 of 2025 raise distinct issues, inasmuch as the former challenges the subsequent orders dated 11.11.2022 and 03.05.2024, whereas the latter questions the very maintainability and legality of the proceeding under Section 37(1) of the OCH & PFL Act. He, therefore, submits that the two writ petitions raise separate grounds of challenge.

15. Mr. G. Mohanty, learned Standing Counsel for the State, submits that the land, measuring Ac.1.50, was leased out to

opposite party No. 1, Sk. Madari in Lease Case No. 557 of 1978 for agricultural purposes, but was never utilised for such purposes. Consequently, in the settlement operation, the land was recorded as Government land under Khata No. 464, Plot No. 949, as '*Abadajogya Anabadi*' in the final ROR published on 21.04.1988. Despite knowledge of the said entry, opposite party No. 1, Sk. Madari initiated R.C. Case No. 182 of 2013 after a lapse of about 25 years, seeking correction of the ROR on the basis of the lease. He also submits that the Additional Commissioner failed to consider the parawise comments of Tahasildar, Barang, supported by the field inquiry of the RI and Amin, indicating that the land was barren and had not been used for agricultural purposes, thereby violating the terms of the lease. He, therefore, assails the impugned order as illegal and unsustainable. Insofar as the contempt petition is concerned, he submits that there has been no wilful disobedience of the order passed by this Court on the part of the Tahasildar, Barang. He submits that, in view of the subsequent developments and the pendency of proceedings relating to R.C. Case No. 182 of 2013, the Tahasildar was unable to proceed with the correction of the ROR as directed.

ANALYSIS

16. Having heard learned counsel for the respective parties and on consideration of the rival submissions and perusal of the records, this Court finds that the principal controversy requiring determination concerns the effect of the judgment dated 19.09.2022 passed in W.P.(C) No. 38246 of 2021 on the subsequent orders passed in R.C. Case No. 182 of 2013, as well as obligation cast on the Tahasildar, Barang, to comply with the order dated 13.02.2023 passed in W.P.(C) No. 3812 of 2023. The maintainability of the challenge to the proceedings under Section 37(1) of the OCH & PFL Act also requires consideration in the light of the pleadings and reliefs sought in the connected writ petitions.

17. The undisputed sequence of events shows that the order dated 09.07.2021 passed by the Additional Commissioner, Settlement and Consolidation, in R.C. Case No. 182 of 2013 was challenged before this Court in W.P.(C) No. 38246 of 2021. By judgment dated 19.09.2022, this Court allowed the writ petition and remitted the matter for fresh hearing with directions regarding the appearance of the parties and completion of the proceeding within a stipulated period. The effect of the said judgment on the order dated 09.07.2021 is, however, a matter of

dispute between the parties. Mr. Samantray submits that, although the matter was remanded for *de novo* hearing, the earlier order was not set aside. He further submits that, even assuming that the order stood impliedly set aside, the petitioner's failure to comply with the directions issued in the remand order rendered the Additional Commissioner competent to uphold the earlier order. Per contra, Mr. Biswal submits that, the order dated 09.07.2021 having been set aside in spirit, the Additional Commissioner, Settlement and Consolidation, could not have restored it as an operative adjudication of the claim and the same could not thereafter be treated as subsisting. For better appreciation of the rival submissions, the operative portion of the judgment of this Court is reproduced below:

> *"xx xx xx*
> ***7.*** *Considering the rival contentions of the parties and as recorded hereinabove, this Court from the directive portion in paragraph no.8 of the order dated 4.03.2020 in W.P.(C) No.2269 of 2018, finds, there is a clear direction for de novo hearing of the revision involved herein that too in a writ only at their instance. For the revision moved by the very same Petitioners, this Court finds, it becomes the responsibility of the Petitioners to attend the Revisional Court with a copy of the order and take the date of hearing. Again for an order having been passed in favour of the Petitioners in the earlier Writ Petition, there was no occasion on the part of the revisional authority in issuing notice to the Petitioners. This Court finds, for the second round of litigation the contesting Opposite Parties suffer for their no fault. For noticing serious lapse on the part of the Petitioners and compelling this Court to interfere in the impugned order being ex parte one, this Court to provide one more opportunity to the Petitioners*

interferes in the impugned order at Annexure-2 but under compelling situation and again remits the matter back to the Additional Commissioner, Settlement and Consolidation, Odisha, Cuttack for rehearing of the R.C. Case No.182 of 2013. While also directing the Additional Commissioner, Settlement and Consolidation, Cuttack to have de novo hearing, this Court also directs both the parties to appear before the Additional Commissioner, Settlement and Consolidation along with a copy of this order on 29th September, 2022 and take the date of hearing of the matter.

8. *Further considering the input in the memo at Annexure-3, this Court while finding that the impugned order was passed on 9.07.2021, finds, the memo at Annexure-3 was filed undisputedly much after closure of the case by the revisional authority. For belated attempt there was no occasion on the part of the Joint Commissioner, Consolidation and Settlement, Odisha, Cuttack to entertain such memo. For the matter is already remanded in the 2nd round of litigation, this Court while directing the parties to appear before the authority on the date fixed, also directs the Addl. Commissioner, Settlement and Consolidation, Cuttack to see finality of the proceeding within a period of two months from the date of appearance of the parties.*

9. *This Court here taking into account the sufferings of the Opposite Party No.3 being a 95 years' old person for no fault of him, this Court imposes a heavy cost on the Petitioners by assessing the same to a sum of Rs.15,000/- (rupees fifteen thousand), which will be paid to the Opposite Party No.3 on the date of appearance before the Additional Commissioner itself.*

10. *The Writ Petition succeeds, but again with an order of remand. There is, however, with award of costs"*

18. In the aforesaid circumstances, the order dated 11.11.2022 passed by the Additional Commissioner assumes significance. As recorded in the preceding paragraphs, the authority purported to uphold the earlier order dated 09.07.2021 on the ground of non-compliance with the direction for payment of costs and failure of the concerned parties to appear on the date

fixed. However, once the matter had been remitted for fresh hearing, the authority was required to proceed in accordance with the remand directions. The consequences, if any, flowing from non-payment of costs or non-appearance of a party had to be considered in the context of the pending proceeding and the directions contained in the judgment of this Court. Such circumstances, therefore, require consideration while deciding the dispute.

19. What can be inferred from the judgment dated 19.09.2022 is that, although this Court had observed that the 'writ petition succeeds', it had remitted the matter for fresh hearing without expressly setting aside the order dated 09.07.2021 and had imposed certain conditions on the petitioners. Therefore, in the considered view of this Court, the order dated 09.07.2021 was placed in a state of legal abeyance (suspended animation), i.e., it was neither fully existent nor fully non-existent. In the event, the petitioners comply with the terms of the remand, the earlier order would cease to operate and a fresh adjudication would take its place. Conversely, if the petitioners fail to comply with the terms of the remand, the suspension would stand lifted. In a way, the interference by this

Court with order dated 09.07.2021 was a conditional one contingent upon compliance of the specific directions issued by it. In such circumstances, both the Additional Commissioner and the petitioners were required to comply with their respective obligations under the directions issued by this Court.

The petitioners did not comply with the direction regarding payment of costs and instead sought an extension of time by filing a memo before the Additional Commissioner on the very date of order impugned. The authority, notwithstanding the filing of such memo, was not competent to extend the time stipulated by this Court. The Additional Commissioner rejected the prayer for extension of time and upheld the order dated 09.07.2021, also taking into consideration the other grounds recorded therein. This Court, is of the view that the authority rightly took note of the petitioners' conduct, as they had forfeited their opportunity of being heard on account of their own acts of omission and commission.

For better appreciation, order dated 11.11.2022 is reproduced below:

> *"The case record is put up today. Both parties are present along with Addl. Standing Counsel. The learned Counsel of the Writ Petitioners in W.P.(C) No.38246 of 2021 and Opp.Party in corresponding R.C No.182/2013 submits a*

memo, praying for one more months' time for payment of cost as parties are all suffering from Corona Positive without any medical certificate to this effect. Despite lapse of around more than one and half month of time from the date of their filing of memo i.e. on dtd.29.09.2022 and marginal order thereon, they have failed to submit the medical certificate or Corona positive test report, in support of their plea of sickness. The learned Counsel of the 0pp.Party in this W.P.(C), on the other hand, submitting his written note of defence, has- vehemently pleaded for outright dismissal of the memo of the writ petitioners, for clearly disobeying the kind order of Hon'ble High Court passed in W.P. (C) No.38246/2021. He submits that the writ petitioners are taking a hide and seek approach in pursuing the original R.C. No.182/2013 nor paying 0pp.party, the imposed cost of Rs.15,000/- (Rupees Fifteen thousand only) till date.

On appreciation of memos and notes of defence as submitted by both parties and on hearing of the averments of the learned counsels of both sides, this court is of the opinion that nothing stands above the kind order passed by Hon'ble High Court in W.P.(C) NO.38246 / 2021. The proceeds of this case prima-facie established this fact that tl^e writ petitioners have no respect for the kind order of Hon'ble High Court, nor the orders passed by this court. Neither he has paid the cost of Rs.15,000/- to the opp.party on the date of filing of memo and till date, nor have they submitted any corroborated evidence like medical certificate or corona positive test report in support of their plea of illness. Even they have not appeared in this court on dtd.18.10.2022. These acts of omission and commission on the part of the writ petitioners sue moto establish the fact that they have blatantly violated the kind order of Hon'ble High Court.

Considering the above and above all adhering to the time line fixed by the Hon'ble High Court for finalization of the case within a period of two months from the date of filing of memo by the writ petitioner for de novo hearing of R.C. No.182/2013, stands dismissed, and the order dtd.09.07.2021 passed in R.C. No.182/2013 is upheld.

The case matter disposed of as such. Order pronounced today on dtd.11.11.2022."

For the reasons indicated in detail, this Court finds no illegality or infirmity in the aforequoted order of the Commissioner so as to interfere.

20. The subsequent order dated 03.05.2024, whereby the Additional Commissioner maintained the earlier order dated 11.11.2022, also requires consideration. It is relevant to note that R.C. Case No.182 of 2013 was restored to file on 17.03.2023 in Misc. Case No.1 of 2023, purportedly in exercise of the liberty granted by this Court by order dated 29.11.2021 in W.P.(C) No.38246 of 2021, wherein this Court had observed as follows:

> *"In course of submission, a Memo is filed by the learned counsel for O.P.3 clearly indicating that the main proceeding involved herein is already disposed of since 11.11.2022. For the Memo. with signature of the learned counsel for O.P.3 being filed, this Court directs closure of the proceeding for the mentioning made but however, with liberty to the Petitioners, in the event any cause of action survives, to re-open the matter. The Memo. be kept on Record."*

In the meantime, Sk. Madari had approached this Court in W.P.(C) No.3812 of 2023, which culminated in the order dated 13.02.2023 directing the Tahasildar, Barang, to work out the direction contained at page 10 of the brief in R.C. Case No.182 of 2013 within one month of communication of the certified copy, subject to there being no further challenge to the order dated 09.07.2021 or any interim order staying its operation. At that stage, the order dated 09.07.2021 had been upheld by the order dated 11.11.2022, and there was no order of stay operating against its implementation. Consequently, the Tahasildar was

required to act in terms of the direction issued by this Court. The subsequent restoration of the R.C. case on 17.03.2023, at the instance of the petitioners, on the basis of the liberty granted in the order dated 29.11.2021, cannot, by itself, render the earlier direction of this Court in W.P.(C) No.3812 of 2023 inoperative without any order of stay. Further, on perusal of the order dated 03.05.2024, this Court does not find any infirmity therein, inasmuch as the Additional Commissioner, taking note of the legal opinion furnished by the learned Standing Counsel and the submissions advanced on behalf of the parties, rejected the claim of the intervenor-petitioner and disposed of the matter by maintaining the earlier order dated 11.11.2022, which had upheld the order dated 09.07.2021. The order dated 03.05.2024 reads as follows:

> *"The Leamed Counsel for the petitioner, is present. The Learned Standing Counsel for the State is present. The Ld, S.C has furnished his view wherein he has stated that the present intervener petitioner has no-locus standi to Implead in the case and It is neither necessary nor is he a proper party in this case. Also it seems to be an afterthought. Hence, this petition is/liable to be rejected.*
>
> *The Counsel claiming on behalf of the Intervener petitioner prayed for further time. The Ld. Counsel for the petitioner strongly opposed the time petition and also the Ld. Standing Counsel.*
>
> *In view of the legal opinion of the S.C of this court, the claim of the intervener petitioner is hereby rejected and the case*

is disposed of accordingly. The previous order dated 11. 11 2022 passed in R.C No. 182/2013 is upheld."

21. The challenge in W.P.(C) No. 4882 of 2025 raises a question concerning the maintainability and legality of the proceeding initiated under Section 37(1) of the OCH & PFL Act. Mr. Samantray objects to the maintainability of the said writ petition on the ground that substantially identical reliefs have already been sought in W.P.(C) No. 15580 of 2024. On examination of the pleadings in the latter writ petition, this Court finds that the petitioners therein have, in paragraph 13, specifically questioned the maintainability of R.C. Case No. 182 of 2013 under Section 37(1) of the OCH & PFL Act, stating that, after withdrawal of Consolidation Revision No. 15 of 2007 under Section 36 of the said Act, opposite party No. 5 could not have initiated a fresh proceeding in respect of the self-same land. In this context, reliance may be placed on the decision of the Supreme Court in ***Central Bank of India v. Dragendra Singh Jadon***[1], wherein it has been held that the principles of constructive res judicata preclude a party from initiating multiple proceedings in respect of the same cause of action by raising issues which might and ought to have been raised in the earlier

[1] (2022) 8 SCC 378

proceeding. Applying the aforesaid principle, this Court finds that the objection regarding the maintainability of R.C. Case No. 182 of 2013 was already specifically raised in W.P.(C) No. 15580 of 2024 and, therefore, cannot be treated as an independent or fresh ground of challenge in W.P.(C) No. 4882 of 2025. Although the former writ petition primarily challenges the subsequent orders dated 11.11.2022 and 03.05.2024, the legality of the initiation of the proceeding under Section 37(1) already forms part of the controversy therein. However, since the issue has not yet attained finality, the bar of res judicata cannot strictly be applied at this stage. Nevertheless, permitting the same issue to be pursued through separate writ proceedings would result in multiplicity of litigation, which would also be contrary to the settled policy of law.

22. Having held as above, this Court proceeds to examine whether the initiation and continuation of R.C. Case No.182 of 2013 under Section 37(1) of the OCH & PFL Act was impermissible merely because Consolidation Revision No.15 of 2007, earlier preferred by opposite party No.5 under Section 36 of the Act, had been withdrawn. In this regard, Mr. Biswal relies on the decision of this Court in the case of ***Niranjan Satapathy***

and others v. Benudhar Satapathy and others[2], wherein it was observed that, though the Commissioner possesses wide supervisory powers under Section 37(1), such powers cannot be routinely exercised to bypass the statutory remedies of appeal under Section 12 and revision under Section 36 of the Act. The facts of the said case are different in as much as the remedies of objection under Section 9, appeal under Section 12 and Revisions under Section 36 and 37 had already been exhausted by the petitioners. The matter was remanded to the Consolidation Officer to decide the objection under Section 9 afresh. The order so passed by the Consolidation Officer was sought to be challenged in a revision under Section 37 of the Act without preferring appeal under Section 12 or revision under Section 36. In this context, this Court held that the revision under Section 37 without exhausting the statutory remedies available, is not maintainable. Said decision, however, does not altogether preclude the exercise of jurisdiction under Section 37(1), but requires such exercise to remain within the limits of the supervisory power conferred by the statute. The mere withdrawal of the earlier revision under Section 36 would not, by itself,

[2] W.P.(C) No.20394 of 2009

render the subsequent proceeding under Section 37(1) without jurisdiction. Its maintainability must be examined with reference to the nature of the earlier proceedings, the order sought to be assailed, the grounds for invoking the supervisory jurisdiction and the statutory limits governing its exercise. Therefore, this Court would not be justified in holding the proceeding inherently not maintainable merely on the ground of withdrawal of the earlier revision.

23. Viewed from another angle, despite being afforded ample opportunity to participate in the proceedings before the Additional Commissioner, the petitioners, by their own acts of omission and commission, failed to raise the question of maintainability of R.C. Case No.182 of 2013 before the said authority. This Court has already taken note of such conduct in the preceding paragraphs. Their failure to raise the objection at the subsequent stage would, therefore, also attract the principle of waiver.

It would also be appropriate to mention that, in the order dated 19.09.2022 passed in W.P.(C) No. 38246 of 2021, this Court had observed that, in the R.C. case, the petitioners were required to establish that they were the legal heirs of Dhobani

Das. In the absence of any material having been placed before this Court to establish the same, this Court finds that the petitioners have no locus to challenge the proceedings.

24. Coming to W.P.(C) No.4587 of 2025 filed by the State challenging the order dated 09.07.2021 passed in R.C. Case No.182 of 2013, this Court finds that the challenge has been raised at a highly belated stage without any sufficient explanation for the delay. It is relevant to note that, by order dated 13.02.2023 passed in W.P.(C) No.3812 of 2023, this Court had directed the Tahasildar, Barang, to work out the direction contained in the order dated 09.07.2021, subject to there being no further challenge to the said order or any interim order staying its operation. Said direction has neither been modified nor recalled. This Court, therefore, cannot sit in appeal over its own earlier order or indirectly dilute the direction issued therein.

25. For the foregoing reasons, this Court finds no ground to interfere with the orders dated 11.11.2022 and 03.05.2024 passed in R.C. Case No.182 of 2013. The challenge to the maintainability of the proceeding under Section 37(1) of the OCH & PFL Act also fails, in view of the petitioners' conduct and the absence of any material establishing that the proceeding was

inherently beyond the jurisdiction of the authority. The challenge by the State to the order dated 09.07.2021 is equally unsustainable for the reasons discussed hereinabove. Accordingly, W.P.(C) Nos.15580 of 2024, 4882 of 2025 and 4587 of 2025 are dismissed. So far as CONTC No.4156 of 2023 is concerned, one months' time is granted to the Tahasildar, Barang to work out the direction contained at page 10 of the brief in R.C. Case No. 182 of 2013 and to file compliance affidavit before this Court. Till such time the CONTC No.4156 of 2023 be kept pending.

26. List W.P.(C) No. 26899 of 2017 on 13.11.2026 for further hearing under the heading 'To Be Mentioned'.

.....

Sashikanta Mishra,
Judge

Orissa High Court, Cuttack
The 6th November, 2026/ A.K. Rana, P.A.

Signature Not Verified
Digitally Signed
Signed by: AJAYA KUMAR RANA
Designation: P.A.
Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 06-Nov-2026 15:13:41