
(2023) 05 OHC CK 0021
In the Orissa High Court
Case No : Writ Petition (C) No. 5861 Of 2020

Ajaya Kumar Das

APPELLANT

Vs

State Of Odisha & Others

RESPONDENT

Date of Decision : 01-05-2023

Acts Referred:

Citation : (2023) 05 OHC CK 0021

Hon'ble Judges : Arindam Sinha, J;S.K. Mishra, J

Bench : Division Bench

Advocate : S. Roy, G.N. Rout

Final Decision : Disposed Of

Judgement

1. Mr. Roy, learned advocate appears on behalf of petitioner and submits, his client was and is interested to avail facility of converting his leasehold interest to ownership. He applied for conversion on 23rd February, 2004. Initially, on having got allotment, his client took permission and obtained financial Assistance from the bank to construct house. In regard thereto, the authority, by communication dated 7th March, 2008 sought clarification. His client furnished the clarification enclosing documents under cover of his letter dated 2nd February, 2010. By impugned demand dated 8th June, 2017, conversion fee of Rs.27,89,257/- and differential land premium of Rs.46,02,272/-were made.
2. He draws attention to our order dated 9th March, 2023, whereby we had required State to produce the notifications regarding revision of conversion fees, made from year 2010 till the notification covering impugned demand.
3. Mr. Rout, learned advocate, Additional Standing Counsel appears on behalf of State and hands up the notifications.
4. Mr. Rout submits, it will appear from petitioner's own representation dated 14th June, 2017 that compliance was only on 2nd February, 2010. This compliance is a pre-condition under the scheme for conversion.

5. We reproduce two paragraphs from communication dated 7th/10th March, 2008.

"Further you have been allowed mortgage permission for securing a loan from Housing Development Finance Corporation Ltd., Bhubaneswar vide this Department order No.5627/CA dated 25.4.1988.

You are therefore requested to furnish the information regarding continuation/cessation of membership from the concerned society along with the loan clearance certificate from the concerned bank for taking necessary action in the matter."

(emphasis supplied)

6. Petitioner has averred and earlier coordinate Bench had recorded in order no.2 dated 3rd March, 2020 that similarly situate person had been directed to deposit only Rs.1,64,252/- for conversion, the document being annexure-10.

7. Accepting contention of State that clearance of housing loan is a pre-condition, we take petitioner's compliance to be as on 2nd February, 2010. There was revision of conversion fees by order dated 22nd February, 2010, upward from the rate to be determined under earlier order dated 31st December, 2009. Said order dated 22nd February, 2010 exempted pending applications as on 14th December, 2009. Since compliance is taken to be on 2nd February, 2010, petitioner's case stood covered by this order dated 22nd February, 2010. All subsequent notifications exempt prior pending applications.

8. Impugned demand is set aside and quashed. The Additional Land Officer will forthwith issue demand for conversion fee on basis of said order dated 22nd February, 2010. The demand is to be made within three weeks from date and complied with by 30 days thereafter, failing which the offer of conversion will stand automatically cancelled.

9. One set of notifications, handed up by Mr. Rout, is made over to Mr. Roy.

10. The writ petition is disposed of.

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