
(2006) 02 OHC CK 0021
In the Orissa High Court
Case No : Writ Petition (C) No. 273 of 2005

Biswanath Matagaja Singh and Others	APPELLANT
Vs	
State of Orissa and Others	RESPONDENT

Date of Decision : 27-02-2006

Acts Referred:

Citation : (2006) 1 OLR 680

Hon'ble Judges : S.B. Roy, C.J; M.M. Das, J

Bench : Division Bench

Advocate : S.P. Misra, S.K. Mishra, S. Mishra, S. Nanda and P. Sahu, for the Appellant; Additional Government Advocate, R.K. Mohapatra, M.K. Mohapatra and P. Jena, for the Respondent

Judgement

M.M. Das, J.—In the present petition, the petitioners have prayed for quashing Annexure-3 which are orders passed by the Tahasildar, Khandapara in Sairat Case No. 40/04-05 by which ultimately by order dated 21.12.2004, the said Tahasildar, Khandapara recorded that the fishery sairat "Kachara Patta" has been decided to be settled with opp.party No.5 by the Addl. District Magistrate, Nayagarh and directed the said opposite party No.5 to deposit Rs. 14,000/- and to execute the agreement for settlement of the said fishery sairat. The petitioners have further prayed for a direction to settle the said fishery sairat only by public auction.

2. Considering the submission made by the learned Counsel for the respective parties, as we find that the said fishery sairat was directed to be settled by the Tahasildar, Khandapara in favour of opposite party No.5 for the year, 2004-05 by his order dated 29.12.2004 and by order dated 10.1.2005, this Court in Misc. Case No.220 of 2005 directed that in the meantime, opposite party No.5 shall not operate the fishery sairat in question, and settlement of the said sairat was for the year, 2004-2005 ending on 31.3.2005, this writ petition which was filed On 6.1.2005 has become infructuous.

3. In this view of the matter, since by our interim order, the opposite party No.5

has been restrained from operating the fishery sairat in question after 10.01.2005, if the opposite party No.5 has, in fact, not operated the said sairat for the full term, he would be entitled for refund of proportionate amount, if deposited by him.

4. Considering the facts and circumstances of the case, we dispose of this writ petition with a direction upon the opposite party No.4 to refund the proportionate amount out of the money deposited by the opposite party No.5 if, in fact, the said opposite party No.5 has not operated the fishery sairat in question on account of the interim order passed by this Court but has deposited the entire amount of Rs. 14.000/-. We further direct that the said fishery sairat "Kachara Patta" shall be put to auction for the year 2005-06 in accordance with law.

With the above observations and directions, the writ petition is disposed of.

S.B. Roy, C.J.

5. I agree.