
(2013) 03 OHC CK 0006

In the Orissa High Court

Case No : Writ Petition (C) No. 6739 of 2012

Chakradhar Pradhan and Others

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 15-03-2013

Acts Referred:

Orissa Consolidation of Holdings and Prevention of Fragmentation of Land Act, 1972 —
Section 37(1), 41(1)

Citation : (2013) 116 CLT 668

Hon'ble Judges : B.K. Patel, J

Bench : Single Bench

Judgement

B.K. Patel, J.—Heard Learned Counsel for the Petitioners & Learned Counsel for the State appearing for Opp. Party No. 1. In view of the nature of order which the Court intends to pass, it is not felt necessary to issue notice to Opp. Party No. 2.

2. In this Writ Petition, Petitioners have assailed the legality of Order Dated 30.4.2008 passed by Learned Commissioner, Consolidation, Orissa, Bhubaneswar dismissing Revision Case No. 677 of 2006 (Bhubaneswar).

3. Petitioners filed revision case u/s 37(1) of the O.C.H. & P.F.L. Act, 1972 (for short "the Act") contending that final records of chaka plots have been correctly prepared in favor of the Petitioners as per their previous records. However, final map of the respective chaka plots have been wrongly plotted & about ac. 0.04 decimals of land has been amalgamated with the adjoining final chaka plot Nos. 2104, 2009 & 2098 of the Opp. Party No. 2. Prayer was, therefore, made for rectification of map of the plots belonging to the Petitioners & Opp. Party No. 2 as per the final Record of rights.

4. It is contended that the Revisional Court without entering into the merits of the claim of the Petitioners dismissed the revision case solely on the ground that the Revisional Court has no jurisdiction after publication of notification u/s 41(1) of the Act. It is strenuously contended that the view taken by the revisional

authority is contrary to principles of law as indicated by this Court in Shri Raj Kishore Subudhi alias Barik Vs. State of Orissa and Others,

5. Having perused the decision cited by the Learned Counsel for the Petitioners which has been rendered by placing reliance on the Full Bench decision of this Court in Gulzar Khan Vs. Commissioner of Consolidation and Others, , it is found that contentions raised on behalf of the Petitioners are not unfounded. The revisional authority does not appear to have taken note of the principles indicated in the above cited decisions. In such circumstances, the matter is required to be remitted back to the revision Court for reconsideration of the revision on merit & passing order afresh after taking note of the principles in the above cited decisions.

6. Accordingly, the Writ Petition is allowed. The impugned order is quashed. The matter is remitted to the Commissioner, Consolidation, Orissa, Bhubaneswar back with a direction that the revision petition shall be heard afresh after giving opportunity of being heard to the parties & order shall be passed afresh after taking note of the principles indicated in the above cited decisions.

7. Accordingly, the Writ Petition is disposed of.

8. Requisites for communication of a copy of this order along with a copy of the Writ Petition to the Commissioner, Consolidation, Orissa, Bhubaneswar to be filed within a week. Urgent certified copy of this order to be granted on proper application.