
(2023) 04 OHC CK 0188
In the Orissa High Court
Case No : Writ Petition (C) No. 25068 Of 2014

Epari Madhav Rao

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 19-04-2023

Acts Referred:

Orissa Government Land Settlement Act 1962 — Section 3

Citation : (2023) 04 OHC CK 0188

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

Bench : Division Bench

Advocate : S.K. Mishra, S. Nayak

Final Decision : Disposed Of

Judgement

1. This matter is taken up through hybrid mode.
2. Heard Mr. S.K. Mishra, learned counsel for the petitioner and Mr. S. Nayak, learned Addl. Standing Counsel appearing for the State-Opposite Parties.
3. The petitioner has filed this writ petition assailing the order dated 26.07.2013 passed by the Asst. Settlement Officer under Annexure-10, by which it has been stated that even though sufficient opportunity was given to the petitioner to submit documents in support of his claim, but the documents were insufficient and hence the claim of the petitioner was rejected.
4. Mr. S.K. Mishra, learned counsel for the petitioner contended that the petitioner has specifically pleaded in paragraph-k of the writ petition that he came to know about the settlement operation going on in the area and he filed objection case no.2972 of 2013 before the Asst. Settlement Officer in the rent camp at Rental Colony, Bhubaneswar along with all the documents, including the order of this Court quashing Annexure-7 in respect of Ac.1.000 dec. of land, which included the case land measuring Ac.0.250 dec. purchased by the petitioner. It is contended that the petitioner is possessed with all the documents and, therefore, opportunity be given to the petitioner to produce all the relevant

documents for consideration so that the Asst. Settlement Office can reconsider the same and pass appropriate order in accordance with law.

5. Mr. S. Nayak, learned Addl. Standing Counsel appearing for the State-Opposite Parties vehemently contended that against the order passed by the Asst. Settlement Officer, appeal lies. Instead of preferring appeal, the petitioner has approached this Court by filing the present writ petition, which is not maintainable. It is further contended that if there is wrong mentioning of land, the petitioner has to avail the alternative remedy by approaching the appropriate forum, but, instead of doing so the petitioner has approached this Court by filing the present writ petition, which is not maintainable in the eye of law.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that sabik khata no.359 in village Ogalapada stood recorded in Anabadi Govt. khata as per finally published settlement ROR. The suit property was leased out in Waste Land Lease (W.L.L.) case to the lessee by the Tahasildar as per the provisions laid down in the OGLS Act, 1962. The provisions in the OGLS Act is made clear regarding use of the suit land by the lessee. But it is found that the land is not being used for the purpose it was allotted and the lessee has violated the conditions regarding the use of the land. Section 3 of the OGLS Act, 1962 provides that the person with whom the land is settled cannot use it for any purpose other than that it is granted, otherwise the lease has to be cancelled. Furthermore, the lessee was allotted only a small piece of land out of the vast area by the Tahasildar for the specific purpose. The lessee/petitioner has not submitted the authenticated copy of the W.L.L. case record along with the trace map. Thereby, it is not possible on the part of the authority to locate the area so as to pass appropriate order in favour of the petitioner.

But now the petitioner contends that he is possessed with the relevant document with regard to the land allotted in his favour and, therefore, he should be given opportunity to produce the same before the authority so that the Asst. Settlement Officer can reconsider the same and pass appropriate order in accordance with law.

7. In the above view of the matter, the order dated 26.07.2013 cannot sustain in the eye of law and the same is liable to be quashed and is hereby quashed. The matter is remitted back to the Asst. Settlement Officer to reconsider the case of the petitioner. The petitioner is directed to produce all necessary documents along with trace map before the authority within a period of 15 days from today. If the petitioner produces the relevant documents, the Asst. Settlement Officer shall consider the same and pass appropriate order in accordance with law within a period of four weeks from the date of receipt of such documents.

8. The writ petition is accordingly disposed of.

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