
(2023) 02 OHC CK 0080
In the Orissa High Court
Case No : Writ Petition (C) No.12526 Of 2021

Harekrushna Panda & Others

APPELLANT

Vs

State Of Odisha & Others

RESPONDENT

Date of Decision : 06-02-2023

Acts Referred:

Citation : (2023) 02 OHC CK 0080

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

Bench : Division Bench

Advocate : P.K. Satapathy, A.K. Nanda

Final Decision : Disposed Of

Judgement

Arindam Sinha, J.

1. Petitioners have moved this court for interference with order dated 25th August, 2018 made by the Tahsildar directing correction of ROR for the case land to be kept under Abadijogy Anabadi Khata, after confirmation of the order by the Sub-Collector.

2. Mr. Satapathy, learned advocate appears on behalf of petitioners and points out from impugned order itself that the authority found his clients to be legal heirs of the recorded tenant (RT), as are in possession over the case land. On query from Court Mr. Satapathy draws attention to circular dated 6th December, 2000 issued by Government of Odisha, Revenue Department, clause (ii) under paragraph 3. Said clause empowers the officer, nominated by the Collector, to institute suo motu cases for all the Bebandobasta holdings, village after village, if not already instituted as mentioned in the circular.

3. Mr. Satapathy submits, the Bebandobasta status of lands in occupation was first addressed by the government on issuance of circular dated 14th March, 1991. He draws attention to order dated 29th December, 1995 issued by the Tahasildar, settling the land in favour of petitioners on payment of salami along

with rent and cess, with interest till publication in new rates. This was done in compliance with directions made in said first circular dated 14th March, 1991. The order of the Tahasildar was subject matter of notice dated 1st December, 2003 issued by Assistant Consolidation Officer (OEA Collector) informing approval by Sub-Collector of the settlement in favour of his clients. He seeks interference.

4. Mr. Nanda, learned advocate, Additional Government Advocate appears on behalf of State. He submits, status of land in occupation of petitioners is inchoate. Accordingly, in compliance of directions made in circular dated 6th December, 2000, there was initiation of suo motu case against petitioners. He submits, enquiry revealed petitioners were unable to produce their relation with possessor of case land on date of vesting. In the circumstances, impugned order was correctly made. There should not be interference.

5. It transpires that for settlement of lands, correctly or incorrectly recorded under status Bebandobasta, there was first issued, circular dated 14th March, 1991. We have satisfied ourselves that proceeding in compliance with said circular was initiated, petitioners were found to be in occupation of the land and there was settlement of it to them on direction for payment of salami, rent at then existing rate. Mr. Satapathy submits, the salami and rent fixed were all paid. There was approval, of the settlement in favour of petitioners, by the Sub-Collector as required in the circular.

6. Subsequent circular dated 6th December, 2000 was issued in reference to aforesaid earlier circular dated 14th March, 1991 and letter dated 17th June, 1993. We extract and reproduce a sentence from said circular to demonstrate reason for issuance of the same.

"It is a matter of concern that many such holdings still continue in inchoate status and people continue to possess the land without paying any rent for the same."

(emphasis supplied)

Following such reasons for issuance, there was direction to institute suo motu cases for all Bebandobasta holdings. We reproduce below the direction passages as in paragraph 2 and clause (ii) under paragraph 3, of said circular.

"2. xxxx Considering the gravity of the matter and loss of revenue, Government desires that a special drive for a period of one year should be taken up with effect from the date of issue of this circular to wipe out the bebandobasta status from the Record-of-Rights. For this purpose in supersession of all previous circulars including the one cited under reference on the subject, the following guide-lines are given which should be followed meticulously.

3. Xxxx (ii) The Officer so nominated should institute suo motu cases for all the bebandobasta holdings village after village, if not already instituted, during the first three months of the drive. For the purpose of instituting the cases a report from the concerned R.I. of mina assigned with the duty should be furnished

separately for each holding and each report should be registered as a furnish his report for such holdings in a village at a line the cases should be registered in the case register by assigning case nos. chronologically, as far as practicable. Xxxx”

(emphasis supplied)

7. Superseding purpose empowering suo motu initiation of cases in respect of land under Bebandobasta status was, existing inchoate status of occupation of land without payment of rent. Petitioners stand recorded as in possession of the land in Bebandobasta status. There is no dispute that they have paid the salami and rent since, impugned order itself says that the suo motu case was initiated on notice of the file put up for fixation of fair and equitable rent. In the circumstances, impugned order made on reopening the case suo motu, was without jurisdiction as circular dated 6th December, 2000 did not apply to petitioners. On the contrary, clause (vii) under paragraph 4 of aforesaid first circular dated 14th March, 1991 says, establishment of claim entitled settlement of the land in raiyati status. Paragraph 11 in said circular requires disposal of the cases with prior approval of the Sub-Collector. Petitioners had the case started by the Tahsildar, pursuant to circular dated 14th March, 1991, in respect of land in their occupation, resulting on settlement upon them, which also stood approved by the Sub-Collector

8. Impugned order is set aside and quashed.

9. The writ petition is allowed and disposed of.

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