
(2023) 03 OHC CK 0207
In the Orissa High Court
Case No : Writ Petition (C) No.659 Of 2021

Kedarnath Samartha

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 27-03-2023

Acts Referred:

Citation : (2023) 03 OHC CK 0207

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

Bench : Division Bench

Advocate : A. Dash, G. N. Rout

Final Decision : Disposed Of

Judgement

1. The writ petition has been listed under heading 'To Be Mentioned' at instance of substituted petitioners.

2. Upon disposal on 5th December, 2022, of the interim application (I.A. no.16083 of 2022) made by substituted writ petitioners, the writ petition was thereafter moved on 4th January, 2023. Mr. Dash, learned advocate appearing on their behalf had submitted, in pursuance of rehabilitation and resettlement policy for "Ekamra Kshetra Amenities and Monuments Revival Action Plan (Ekamra Plan)", his client's land and residential house were purchased by the trust. The policy was propounded by State in consultation with Commissioner, Bhubaneswar Municipal Corporation (BMC). Part consideration under the sale deeds were paid but the balance remained unpaid, which is why his client was before Court .

3. On 13th January, 2023 submissions were made on behalf of State by Mr. Rout, learned advocate, Additional Standing Counsel, appearing today and Mr. Sahoo, learned advocate appearing on behalf of Bhubaneswar Municipal Corporation (BMC). We reproduce below paragraphs 2 to 5 in order dated 13th January, 2023.

"2. Mr. Rout, learned advocate, Additional Standing Counsel appears on behalf of State and submits, instructions have been received from Under Secretary to

Government, Revenue and Disaster Management Department that the matter regarding two sale deeds both dated 5th June, 2020 is responsibility of Bhubaneswar Municipal Corporation (BMC). He hands up copy of letter dated 7th January, 2023 from Under Secretary to Government to the Commissioner, BMC. We reproduce below, text of the letter.

"In enclosing herewith the letter no.636 dated 05.01.2023 of Addl. Standing Counsel, O/o the Advocate General, Odisha, Cuttack to the subject cited above, I am directed to say that you have been authorized to deal the matter and defend the case on behalf of the Additional Chief Secretary to Government, Revenue & DM Department in consultation with the Additional Standing Counsel under intimation to this Department.

This may be treated MOST URGENT."

3. Mr. Sahoo, learned advocate appears on behalf of BMC and on query from Court regarding payment of balance consideration amount as noted by coordinate Bench on order dated 24th March, 2021, referred to in our earlier order he submits, brother of petitioner, since deceased has raised dispute with his client's Settlement Officer. Otherwise, his client is willing to make the payment.

4. We have perused said sale deeds dated 5th June, 2020. Vendor therein is petitioner, since deceased. As on date of the sale deed vendor was 88 years old. His widow, son, daughters and two grandsons from pre-deceased daughter are substituted petitioners. They are class-I heirs and covered under definition of vendor in the deeds.

5. Adjournment is granted for BMC to issue instructions Page 3 of 3 for adjudication and orders to be made on the writ petition."

4. Earlier there was mention at the Bar by Mr. Sahoo that payment was made by BMC. Mr. Dash had obtained adjournment for instructions of confirmation. Today Mr. Dash confirms payment has been made.

5. In view of above, no further order need be made.

6. Mr. Dash submits, his clients have received the consideration without prejudice to their rights and contentions regarding other claims they have, apart from the sale.

7. The writ petition is disposed of.

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