
(1987) 02 OHC CK 0025

In the Orissa High Court

Case No : Original Jurisdiction Case No. 776 of 1979

Kelu Palei

APPELLANT

Vs

Revenue Divisional Commissioner Central Division and Others

RESPONDENT

Date of Decision : 18-02-1987

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Orissa Land Reforms Act, 1960 — Section 15, 15(1), 59

Citation : (1987) 63 CLT 634

Hon'ble Judges : L. Rath, J;G.B. Patnaik, J

Bench : Division Bench

Advocate : R.C. Ram, for the Appellant; Addl. Standing Counsel and B.B. Ratho, for the Respondent

Final Decision : Allowed

Judgement

G.B. Patnaik, J.—The revisional order of the learned Revenue Divisional Commissioner in a proceeding u/s 15 of the Orissa Land Reforms Act (hereinafter referred to as the "Act") is being impugned in the present writ petition.

2. The Petitioner filed an application u/s 15 (1) (b) of the Act, but the said application having been rejected, the Petitioner filed an appeal before the Sub-Divisional Officer. The appeal being rejected, a revision was carried. The learned Revenue Divisional Commissioner has rejected the revision and hence the present writ petition.

3. Mr. Ram, the learned Counsel for the Petitioner, raises only one contention, namely, that the revisional authority while exercises his power of revision under a revenue law like the Orissa Land Reforms Act, is entitled to go into the questions of fact as well as law. In the present case, the Revenue Divisional Commissioner has merely extracted a portion of the judgment of the appellate authority and concluded by saying:

I agree with the concurring findings of the appellate Court.

and on that conclusion has dismissed the revision. According to Mr. Ram, the revisional authority has failed to discharge the duties as a quasi-judicial authority and, therefore, the impugned order is liable to be interfered with.

Mr. Ratho, the learned Counsel for opposite party No. 3, contends that the revisional authority in the present case is in general agreement with the reasons given by the two lower forums and in that view of the matter, it is not required of him to re-state the effect of the evidence considered by him or reiterate the reasons given by the appellate authority and, therefore, the revisional order is not liable to be interfered with in exercise of the extraordinary jurisdiction of this Court. In support of the said contention, reliance has been placed on the decision of the Supreme Court in the case of *Girja Nandini Devi and Others Vs. Bijendra Narain Choudhury*, .

4. In order to appreciate the correctness of the rival submissions, it is necessary to examine the scope and ambit of the power of revision under the Act. Section 59 of the Act provides that the prescribed authority may on an application by any party aggrieved by an order passed in appeal under any provision of this Act filed within the prescribed period, shall revise the order. Sub-section (3) of Section 59 stipulates that the prescribed authority shall follow such procedure as may be prescribed and shall have power to call for and examine records of the proceedings wherein such order was passed and to pass such order as he may deem fit. Rule 42-B of the Orissa Land Reforms Rules (hereinafter referred to as the "Rules") provides for the manner of disposal of the revision. Rule 45 of the Rules provides that Rule 43 shall mutatis mutandis apply to the hearing and disposal of revision and Rule 43 states that the procedure for filing and disposal of appeal shall be the same as provided for in Order 41, Code of Civil Procedure. A combined reading of the aforesaid provisions would undoubtedly indicate that a revisional authority under the Act is required to dispose of the revision following the procedure prescribed under Order 41 of the Code of CPC which is the procedure for disposal of appeals under the said Code. In our opinion, the revisional authority has full jurisdiction to go into facts as well as law and dispose of the revision like an appeal under Order 41 of the Code of Civil Procedure. Therefore, the jurisdiction of the revisional authority under the Act is not the same as the jurisdiction of a revisional authority u/s 115 of the Code of Civil Procedure, but is much wider like the jurisdiction of an appellate authority under Order 41, Code of Civil Procedure.

5. In view of our aforesaid conclusion, the further question remains to be considered is as to whether a revisional authority exercising Ius power of revision u/s 59 of the Act can dispose of the revision by merely stating that he agrees with the conclusion of the forum below. In our opinion, he cannot be permitted to do so. No doubt, the Supreme Court decision in *Girijanandini Devi's* case¹ (supra) on which Mr. Ratho for opposite party No. 3 has placed reliance states that it is not the duty of the appellate Court when it agrees with the view of the trial Court on the evidence either to re-state the effect of the evidence or to

reiterate the reasons given by the trial Court and an expression of general agreement with reasons given by the Court decision of which is under appeal would ordinarily suffice. But the phrase "expression of general agreement with reasons given by the Court" would not tantamount to disposing of an appeal by merely stating that "I agree with the findings of the trial Court." The judgment under challenge must show that the appellate authority has applied his mind to the materials on record and what is permissible is that the appellate authority may not re-state the effect of the evidence or to reiterate the reasons of the trial Court. All the same, if the judgment under challenge would show that the appellate authority has merely disposed of the appeal by concluding in one sentence that "I agree with the findings and conclusions of the trial Court" then such a judgment of the appellate Court cannot be sustained as it would not come within the permissible limits of "expression of general agreement with the reasons given by the Court", as decided by the Supreme Court in *Girijanandini Devi's case*¹, referred to supra. So far as Section 59 of the Act is concerned in view of our conclusion that the revisional authority has full jurisdiction to enter into the question of fact and law, even in case of the revisional authority concurring with the ultimate conclusions of the lower tribunal, the revisional order must indicate something from which it can be inferred that the revisional authority has applied his mind to the materials on record fully and has reached the same conclusion as that of the lower tribunal. Examining the present case, we are of the view that the revisional authority has failed to discharge his quasi judicial function and, therefore, the impugned order cannot be sustained. It is the duty of the High Court to keep all the authorities and tribunals while discharging their quasi judicial and statutory functions within the bounds of their jurisdiction and to compel them, whenever necessary to perform the duties enjoined upon them by law strictly in accordance with the relevant statute and that is how rule of law can be maintained. Since the revisional authority in the present case has failed to discharge his quasi judicial power which the statute envisages in the manner in which the said power has to be exercised, we would call upon him to re-dispose of the revision in accordance with law.

6. Another fact which requires to be noticed is that in the meantime, the statute has been amended and a .revision u/s 59 of the Act against the order of the Sub-Divisional Officer lies to the Additional District Magistrate. This being a procedural law would also apply to the pending applications. But it is not necessary for us to decide this question since counsel appearing for both parties agree that in the event the matter is to be remanded then it has to be remanded to the Additional District Magistrate who is now the forum for disposing of a revision u/s 59 of the Act against an appellate order of the Sub-Divisional Officer.

7. In the ultimate result, therefore, the impugned order of the Revenue Divisional Commissioner dated 3-3-1979 is hereby quashed and the matter will now go back before the Additional District Magistrate who shall dispose of the same in accordance with law after hearing the parties concerned. True it is, the Additional District Magistrate is not a party before us, but the learned Counsel

appearing for both parties undertook to see that the parties appear before the Additional District Magistrate on 9th of March, 1987, to receive appropriate direction regarding the date of hearing of the revision. Since the matter is an old one, we would call upon the Additional District Magistrate to dispose of the revision by end of May, 1987. This writ application is accordingly allowed, but in the circumstances, without any order as to costs.

L. Rath, J.

8. I agree.