
(2016) 08 OHC CK 0021
In the Orissa High Court
Case No : W.P.(C). No. 20569 of 2015

Kundanmal Choradia

APPELLANT

Vs

The Tahasildar, Nuagaon Dist.-Nayagarh

RESPONDENT

Date of Decision : 30-08-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 122 CutLT 809

Hon'ble Judges : Biswanath Rath, J.

Bench : Single Bench

Advocate : Mr. S. Das, A.S.C, for the Opposite Parties; M/s. S.S. Chaini and A. Hussien, Advocates, for the Petitioners

Final Decision : Allowed

Judgement

Biswanath Rath, J. - In the second round of litigation, the petitioner in filing the present writ petition has assailed the order dated 2.3.2013 passed by the Tahasildar, Naugaon under Annexure-1.

2. In assailing the impugned order alleging that there have been some manipulations in the order dated 29.11.2012 and following such manipulation, notice on the petitioners has been suppressed, instead the matter is decided finally in their absence holding against the petitioners on 2.3.2013, the order impugned in the present writ petition. In entertaining this writ petition, this Court directed the State Counsel to produce the record in this Court. Looking to the grievousness in the allegation at the instance of the petitioners that not only the date fixed by the order dated 29.11.2012 has been manipulated but no notice has ever been issued to the contesting parties and the matter has been decided in their absence, Records have been produced in Court today. Perusal of the records, this Court finds even though the order dated 29.11.2012 discloses the postponement of the case to 2.3.2013 but following the order dated 29.11.2012 as appearing from the direction contained therein, no notice was issued to the petitioners. Further, perusal of the record of the Tahasildar it appears that the

Tahasildar after disposal of the proceeding vide Order dated 2.3.2013 issued notice to the parties on 2.3.2013 fixing the date of appearance of the parties for hearing to 20.7.2013. Since the matter was already disposed of by order dated 2.3.2013 by passing the impugned order, this notice becomes redundant. This Court finds the petitioner has not been given opportunity of hearing following the direction of this Court in W.P.(C) 12010 of 2012. Consequently, the impugned order is also bad.

3. In view of the above, while setting aside the impugned order under Annexure-1, this Court remits the matter back to the Tahasildar, Naugaon-opposite party no.1 with a word of caution to remain careful in the legal proceedings and not to repeat such types of mistakes hereinafter. Further, in view of the remand of the matter, the matter be decided afresh by passing a fresh order providing opportunity of hearing to all concerned.

4. Since the matter is decided in the presence of learned counsel for the petitioners, petitioners are directed to appear before the Tahasildar, Naugaon opposite party no.1 on 8th September, 2016 along with a certified copy of this judgment and the Tahasildar shall do well in disposing the matter in terms of the direction of this Court. So far as private opposite parties are concerned, the Tahasildar is to issue notice fixing date of hearing sufficiently ahead of the date of hearing.

In the result, the writ petition succeeds. However, there is no order as to cost.