
(1987) 06 OHC CK 0004
In the Orissa High Court
Case No : Civil Revision No. 185 of 1985

Mayadhar Bhuyan

APPELLANT

Vs

Gajendra Satpathy

RESPONDENT

Date of Decision : 30-06-1987

Acts Referred:

Orissa Tenants Relief Act, 1955 — Section 11A(5), 11A(6)

Citation : (1987) 64 CLT 384

Hon'ble Judges : S.C. Mohapatra, J

Bench : Single Bench

Advocate : N. Mukherjee and A.K. Mohapatra, for the Appellant; A.K. Padhi, S.K. Padhi and Dibakar Bhuyan, for the Respondent

Final Decision : Dismissed

Judgement

S.C. Mohapatra, J.—This is a statutory revision u/s 11-A (6) of the Orissa Tenants Relief Act, 1955 (hereinafter referred to as 'the Act') as amended in the year 1962.

2. Claiming to have relationship of tenant with the opposite party Petitioner filed an application under the Act prior to its amendment in the year 1962. After the amendment, the second appellate authority remitted the matter back to the original forum by his order dated 11-9-1971 in Second Appeal No. 12 of 1968. After remand, the case was re-beard and in the original forum the Petitioner became successful ex parte. When the opposite party moved for recalling the ex parte order the same was allowed and on hearing the claim of the Petitioner to be a bhagchasi was rejected. Petitioner preferred an appeal before the Additional District Magistrate who allowed the appeal. Opposite party preferred second appeal u/s 11-A (5) of the Act which was dismissed. However, opposite party filed an application for review which was allowed by the second appellate authority. Aggrieved by the order of review, this civil revision has been filed.

3. This Court is to exercise the power of revision not u/s 115 of the CPC but as

per the statutory provision provided under. Section 11-A (6) of the Act which reads as follows:

(6) The High Court may on any question of law raised in an application for revision by any person aggrieved by an order of the Revenue Divisional Commissioner under Sub-section (4) or under Sub-section (5) filed within sixty days from the date of the said order revise the same and confirm reverse or modify the said order according as the Court thinks proper.

The plain language of the Sub-section makes it clear that a second appellate order u/s 11-A (5) of the Act can be revised.

In view of the statutory limitation confining the power of revision of this Court to a second appellate order u/s 11-A (5) only there is no scope for exercising the revisional power to consider the correctness of the order of review which is not provided for under the Act. When an authority is vested power under the statute it is to exercise power as provided under the statute or not at all. There is no scope for exercising the inherent power in such cases.

4. In view of the discussion made above, the impugned order being not an order u/s 11-A (5) of the Act, the civil revision is not maintainable. In this view of the matter Mr. A.K. Mohapatra, the learned Counsel for the Petitioner prayed to withdraw this Civil Revision for availing the opportunity of seeking remedy in appropriate forum. The Civil Revision is permitted to be withdrawn and as such is dismissed as withdrawn. No costs.