
(2005) 09 OHC CK 0055
In the Orissa High Court
Case No : Writ Petition (C) No. 5058 of 2005

Mr. Purna Ch. Pradhan

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 06-09-2005

Acts Referred:

Orissa Government Land Settlement Act, 1962 — Section 7A, 7A(3)

Citation : (2006) 1 OLR 184

Hon'ble Judges : M.M. Das, J;C.J.MANUOR04252005.htm, J

Bench : Division Bench

Advocate : Panda, for the Appellant; P.K. Mohanty, learned A.G.A., for the Respondent

Final Decision : Allowed

Judgement

1. The petitioner in this writ application calls in question the order dated 31.3.1998 passed by the Addl. District Magistrate, Khurda in Revision Case No.137 of 1998, annexed to the writ application as Annexure-3.
2. The petitioner is the son of original lessee late Adhikari Pradhan. On an application made by said late Adhikari Pradhan to the Tahasildar, Bhubaneswar W.L. Case No. 878 of 1972 was registered and after following due procedure of law, lease of a land measuring an area of Ac. 0.835 decimals of land situated in sabik pFot No.238 under Khata No.95 of village Dalua was settled in favour of the said late Adhikari Pradhan by order dated 20.9.1973.
3. From the impugned order under Annexure-3, it appears that as in a Public Interest Litigation, this Court directed to find out an scrutiny as to whether Government land has been leased out on Bhubaneswar by playing fraud on the authorities by any lessee and if it is found that any lease is granted by commission of fraud, necessary steps should be taken to cancel the same, Revision Case No.137 of 1998 was initiated suo mofu by the Addl. District Magistrate, Khurda u/s 7-A of the O.G.L.S. Act, 1962.

4. A reading of the impugned order shows that the Addl. District Magistrate, Khurda though has found certain irregularities in following the procedure as envisaged under law for grant of lease, but has not arrived at any finding of fraud played the original lessee. Nevertheless, the lease granted in favour of the original lessee who was the father of the petitioner has been cancelled by the impugned order.

5. We also find that the revision case was initiated in 1998 and the lease cancelled under the impugned order was pursuant to an order dated 20.9.1973 of the Tahasildar, Bhubaneswar.

6. The second proviso to Sub-section (3) of Section 7 - A of the O.G.L.S. Act, 1962 specifically provides that no proceeding under the said section shall be initiated after expiry of 14 years from the date of the order.

7. In the present case, it is apparent that a suo motu revision has been initiated more than a decade after expiry of the said period of limitation prescribed under the Act. The order passed in the Public Interest Litigation can never have the effect of extending the period of limitation as provided under the statute. It is no doubt true that in case of fraud committed on the authority for obtaining a lease, the date of detection of such fraud would be the relevant date or in other words the starting point for calculation of the period of limitation as prescribed in the Act. But since in the instant case, the Addl. District Magistrate, Khurda has not come to such a conclusion that the lease was obtained fraudulently, the question of extending the period of limitation by calculating the same from the date of detection of fraud does not arise.

8. We are, therefore, of the view that the Revision Case No. 137 of 1998 disposed by the Addl. District Magistrate, Khurda by the impugned order dated 31.3.1998 is wholly without jurisdiction, the revision case having been initiated much after expiry of the period of limitation prescribed under the Act. We, therefore, quash the impugned order dated 31.3.1998 passed in Revision Case No. 137 of the 1998 under Annexure-3 to the writ application.

9. The writ application is accordingly allowed. Urgent certified copy of this order be granted as per the rules.