
(2009) 03 OHC CK 0102
In the Orissa High Court
Case No : Writ Petition (C) No. 19316 of 2008

Naba Krushna Jena

APPELLANT

Vs

Member, Board of Revenue

RESPONDENT

Date of Decision : 02-03-2009

Acts Referred:

Limitation Act, 1963 — Section 5

Orissa Survey and Settlement Act, 1958 — Section 15

Citation : (2009) CLT 79 Supp

Hon'ble Judges : A.S. Naidu, J

Bench : Single Bench

Advocate : Dinabandhu Nayak and Sabita Nayak, for the Appellant;

Final Decision : Dismissed

Judgement

A.S. Naidu, J.—The Order Dated 9.11.2008 passed by the Member, Board of Revenue, Orissa, Cuttack/in Revision Petition No. 7353 of 2002 is assailed in this writ application.

2. Revision Petition No. 7353 of 2002 was initially filed by the Petitioner before the Commissioner, Land Records and Settlement, Orissa, Cuttack invoking jurisdiction u/s 15(b) of the Orissa Survey & Settlement Act, 1958. The prayer of the Petitioner was to correct the record of rights. Along with the Revision petition the Petitioner filed another petition u/s 5 of the Limitation Act with a prayer to condone the delay in filing the Revision petition. According to the Petitioner, the Revision petition was transferred from the court of Commissioner, Land Records and Settlement to the court of Member, Board of Revenue, but then, no notice was issued to the Petitioner. It appears that notices were issued to the concerned advocates & the fact of transfer of the case was notified in the Notice Board of the Bar association. The order reveals that the Member, Board of Revenue took up the Revision petition & dismissed the same only on the ground that the same was barred by time.

3. Learned Counsel for the Petitioner humbly submits that if opportunity would have been given to him, several decisions of the Supreme Court as well as of this Court could have been cited to substantiate the plea that limitation can be condoned. It is further submitted that the learned Member, Board of Revenue has not considered all the facts and the order has been passed without affording an opportunity of hearing to the Petitioner.

4. After hearing learned Counsel for the parties, this Court finds that in fact no notice was issued to the Petitioner though intimation was given to the advocate who was appearing before the Commissioner Land Records. According to Mr. Nayak, learned Counsel for the Petitioner the said advocate had not intimated the Petitioner with regard to the fact of transfer.

5. In view of the aforesaid facts and circumstances, this Court feels ends of justice & equity would be better served if the impugned order (Annexure-6) is set aside and the matter is remitted to the Court of learned member, Board of Revenue for de novo disposal of R.P. No. 7353 of 2002 and it is ordered accordingly. To avoid further delay, this Court directs the Petitioner to appear before the learned Member, Board of Revenue, Orissa, Cuttack on 20.3.2009 along with a certified copy of this order. Thereafter the learned Member shall post the case on a date suitable to him and dispose of the case in accordance with law. It is made clear that this Court expresses no opinion with regard to merits of the case.