
(2023) 04 OHC CK 0181
In the Orissa High Court
Case No : Writ Petition (C) No.7007 Of 2015

Nikhil Ranjan Nayak

APPELLANT

Vs

State Of Odisha & Others

RESPONDENT

Date of Decision : 18-04-2023

Acts Referred:

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

Citation : (2023) 04 OHC CK 0181

Hon'ble Judges : Dr B.R. Sarangi, J;M.S.Raman, J

Bench : Division Bench

Advocate : A.R. Dash

Final Decision : Allowed

Judgement

1. This matter is taken up through hybrid mode.
2. The challenge in the present petition is to an order dated 30th January, 2015 passed by the Addl. District Magistrate, Bhubaneswar (ADM) in Lease Revision Case No.17/14 cancelling the lease of the land in Khata No.574/17, Plot No.1505/2402 in Mouza-Ghangapatna to an extent of Ac.1.000 decimal (hereafter referred to as 8land in question9).
3. It appears that the impugned order was passed under Section 7-A (3) of the OGLS Act, 1962. The notice dated 3rd December, 2014 issued to the Petitioner alleges that 8the lessee has not used the leased out land for the purpose for which it was granted9. As rightly pointed out, the conditions for invoking SUO MOTU power under Section 7-A (3) of the OGLS Act, and that too beyond period of 14 years from the date of grant of the original lease are that the original order came to be passed under mistake of fact, or owing to a fraud or misrepresentation or on account of any material irregularity of procedure. None of the above three grounds are attracted in the present case and therefore, the ADM could not have passed the consequential order under Section 7-A (3) of the OGLS Act cancelling the original lease.

3. It is Section 3-B of the OGLS Act which could, if at all, be invoked in the event that the person in whose favour the land in question was settled ⁸has used it for any purpose other than that for which it was settled⁹.

4. For the aforementioned reasons, the impugned order of the ADM is hereby set aside. This will not prevent the Govt. authorities from hereafter proceeding in accordance under Section 3-B of the OGLS Act.

5. The writ petition is allowed in the above terms. No order as to costs.

.....