

(1959) 08 OHC CK 0003
In the Orissa High Court
Case No : O.J.C. No. 259 of 1958

Panu Sahu and Another

APPELLANT

Vs

Board of Revenue and Another

RESPONDENT

Date of Decision : 05-08-1959

Acts Referred:

Constitution of India, 1950 — Article 226
Orissa Estates Abolition Act, 1951 — Section 5

Citation : (1959) 25 CLT 559

Hon'ble Judges : Narasimham, C.J.; Das, J

Bench : Division Bench

Advocate : B. Das, for the Appellant; A.G., for the Respondent

Final Decision : Dismissed

Judgement

Narasimham, C.J.—This is a petition under Article 226 of the Constitution of India against an order, dated 11-10-1958 of the member, 11 Board of Revenue, declining to interfere in revision, with the appellate order of the Collector of Puri upholding an order of Shri D.P. Mohanty, Deputy Collector, annulling lease executed in favour of the Petitioners in exercise of the powers conferred by Section 5(i) of the Orissa Estates Abolition Act. The learned Member, Board of Revenue, held that he had no revisional jurisdiction over the appellate judgment of the District Collector. Mr. R. Das on behalf of the Petitioner frankly concede that this view of the Member was correct. But he asked us to interfere with the appellate order of the District Collector on the ground that conclusions arrived at by him and by the authority below him were arbitrary and capricious and not justified by the evidence on record.

2. The main questions for consideration by the two lower Revenue authorities were (i) whether the lease in favour of the Petitioners was executed either to defeat the provisions of the Orissa Estates Abolition Act or to give higher compensation to the Zamindar. The Zamindar in this case was the Paikapara Estate which was taken over by Government under the provisions of the Estate

Abolition Act sometime in 1953. The lease in favour of the Petitioners was executed on 9-2-1952. The Petitioners alleged that they were in possession of the lands two years prior to the date of the lease, that is to say from 1950, but this plea was not accepted by the lower appellate Court. The lease was in respect of about 50 acres of anabadi land on an annual rental of Rs. 78/2/0 and on payment of a salami of Rs. 850/-. The Estates Abolition Act came on the statute book in 1951, and the lease by the Zamindar which took place after the coming into force of this Act, by which 50 acres of anabadi were settled with a person on payment of a substantial rent and salami, could prima facie be held to have been made for the purpose of defeating the provisions of the Act; because such a lease would deprive the Government of their right to take over possession of the anabadi lands on the abolition of the Estate and would, also, increase the amount of compensation payable to the Zamindar. There were also some other circumstances which were carefully considered by the two lower revenue authorities in arriving at that conclusion. In exercise of our extraordinary jurisdiction under Article 226 we are not prepared to interfere with their findings, nor can we accept Mr. Das's contention that the findings are arbitrary or capricious and not justified by the evidence on record.

3. We would accordingly dismiss this application with costs. Hearing fee Rs. 100/- (Rupees one hundred).

Das, J.

4. I agree.

5. Appeal dismissed.