

(1956) 01 OHC CK 0012
In the Orissa High Court
Case No : O.J.C. No. 121 of 1955

Prasanna Kumar and Another

APPELLANT

Vs

Dhruba Das and Others

RESPONDENT

Date of Decision : 05-01-1956

Acts Referred:

Constitution of India, 1950 — Article 227
Orissa Tenants Protection Act, 1948 — Section 11

Citation : (1956) 22 CLT 201

Hon'ble Judges : Panigrahi, C.J.; Mohapatra, J

Bench : Division Bench

Advocate : G.K. Misra and R.C. Mohanty, for the Appellant; U.C. Misra, for the Respondent

Final Decision : Allowed

Judgement

Mohapatra, J.—This is a petition under Article 227 of the Constitution (or quashing an order dated 29th December, 1954 passed by the Member (Excise), Board of Revenue, allowing a petition for review presented by the opposite parties. The opposite parties being tenants made an "application under the Orissa Tenants" Protection Act against the present Petitioner interfere with the possession of the tenants. The petition was allowed by the Sub-Deputy Collector, Cuttack, on 26-11-51. The present Petitioners therefore had to prefer an appeal against the order of the Sub-Deputy Collector before the Additional District Magistrate (With appellate powers) of Cuttack. The appeal was allowed on 26.7.52. The opposite parties therefore had to present a petition for revising the order of the Additional District Magistrate, and Shri Ramanathan, Member (Excise) Board of Revenue, confirmed the order passed by the Additional District Magistrate by his order dated 12th October, 1953. Thereafter the opposite parties filed a petition for reviewing the previous order passed by the Member on 12th October, 1953. The review petition having been allowed the present O.J.C. has been filed for quashing the order of review.

2. The short "point arising in this particular case is whether the Member, Board of Revenue, had any statutory powers to review his previous order. Looking to the provisions of the Orissa Tenants' Protection Act we find that the right of appeal and the right of revision have been provided for in Section 11 of the Act. It is significant to note that the Act further provides that the revisional order passed by the Member, Board of Revenue, is final. It is manifest therefore that in the absence of any statutory powers for review of the said order, the Member himself cannot affect the finality of the order. The power of review as is well recognised is only a creature of Statute and is not" within the inherent powers of any Officer or Court. In this view of the matter, we are absolutely clear in our mind that the order dated 29th December 154 passed by the Member (Excise), Board of Revenue, allowing the review petition is without jurisdiction, and therefore the order is quashed.

3. The O.J.C. is allowed and the Petitioners are entitled to their costs. Hearing fee is assessed at fifty rupees (Rs. 50/-).

Panigrahi, C.J.

4. I agree.

5. Petition allowed.