
(2017) 12 OHC CK 0003
In the Orissa High Court
Case No : 13159 of 1998

Prasanta Kumar Lenka

APPELLANT

Vs

State of Orissa and others

RESPONDENT

Date of Decision : 01-12-2017

Acts Referred:

[Orissa Government Land Settlement Act, 1962](#), [Section 3](#), [Section 7](#)

Citation : (2017) 12 OHC CK 0003

Hon'ble Judges : B.K.Nayak, D.P.Choudhury

Bench : DIVISION BENCH

Advocate : S.Dash, B.Mahapatra, S.Nanda, S.K.Mohanty, S. Mishra, B.S. Panigrahi, S.K.Sahoo, Amit Ku. Pattnaik, Durga Ch. Dey

Judgement

1. Challenge has been made to the illegal action of the Revenue Divisional Commissioner, Northern Division, Orissa, opposite party no.2 in proceeding with Revision Case No.1 of 1998 with a prayer to quash the said proceeding.

2. FACTS The factual matrix leading to the writ petition is that the petitioner and his brothers, who are proforma opposite parties 4 to 7 to the present writ petition, are siblings of one Manorama Lenka. It is alleged inter alia that said Manorama Lenka had no property at Angul except service and business of opposite party no.5 at Angul. It is stated that one Ekadasi Pradhan (opposite party no.3) was leased out with Ac.0.09 decimals of homestead land corresponding to Plot No.180/3 under Khata No.1 in Angul Town vide registered lease deed dated 15.11.1984 after complying necessary formalities including the sanction granted by the competent authority and he constructed a thatched house thereon. Since he was in urgent need of money to construct his house, he sold the said land to the mother of the petitioner (Manorama Lenka) under registered sale deed No.3335/1984 with the permission of the Collector, Dhenkanal on payment of consideration of Rs.15000/- and transferred the leasehold right over the case land. So, on 24.01.1985, the S.D.O., Angul

executed the registered lease deed in favour of the mother of the petitioner. Since the date of purchase, the mother of the petitioner got the case land mutated in her name and continued to pay the rent.

3. Be it stated that after taking permission from N.A.C., Angul, the mother of the petitioner constructed house over the case land in the year 1985. After the death of the mother of the petitioner, the petitioner and proforma opposite parties 4 to 7, being the absolute legal owner of the case land, continued to possess the same. At the instance of some inimical persons of the petitioner, the Collector, Angul through the Government Pleader of Angul filed Revision Case No.1 of 1998 under Section 7-A of the Orissa Government Land Settlement Act, 1962 (hereinafter called as "the Act, 1962") for cancellation of the lease in favour of opposite party no.3 and the same is pending and the petitioner and his brothers have been added as opposite parties to that revision case.

4. Be it stated that under Section 3(1)(e) of the Act, 1962, any officer not below the rank of Tahasildar is the authority to settle the land in favour of the lessee and under Section 7(1)(b) of the Act, 1962, an appeal lies to the Collector against the order of Sub-Divisional Officer. In the instant case, no appeal is filed against the order of settlement passed by the S.D.O of Angul in respect of the lease granted in favour of the opposite party no.3 or the mother of the petitioner for which the settlement has become final, but the Collector moved the Revenue Divisional Commissioner (in short "RDC") vide Revision Case No.1 of 1998 under provisions of the Act, 1962. Under Section 7-A(1) of the Act, 1962, the revision lies to the Collector against the order of settlement made by the S.D.O. It is the case of the petitioner that although there is no objection filed to the settlement of the case land, but the RDC having no jurisdiction to hear the Revision Case, initiated the instant revision case. Under the relevant provisions of the Act, 1962, the Collector has got the jurisdiction to examine the records and review the order passed by the S.D.O. In the revision proceeding, the RDC, without affording necessary opportunity to the petitioner to be heard, was about to dispose of the matter for which the petitioner filed the instant writ petition in which an interim order was passed on 24.09.1998 staying the further proceeding of Revision Case No.1 of 1998. Thus, the writ petition is filed to quash the proceeding vide Revision Case No.1 of 1998 pending before the RDC, who has no jurisdiction to adjudicate such case.

5. Per contra, opposite parties 1 and 2 have filed counter affidavit stating that the writ petition is not maintainable since the Revision Case No.1 of 1998 is pending before the opposite party no.2 for cancellation of the lease granted in favour of the opposite party no.3. According to the counter, the opposite party no.3 has sold the case land to the mother of the petitioner without obtaining prior permission and the lease has been granted in favour of opposite party no.3 violating the provisions of the Act, 1962 and the Rules made thereunder.

6. It is the further case of the opposite parties 1 and 2 that the case land measuring an area of Ac.0.09 decimals out of Plot No.180/3 was leased out in

favour of opposite party no.3 and lease deed was also executed after three years of passing the order of sanction of lease. Since the surname of lessee was wrongly written in the sanction order by the Collector, Angul, it was again corrected on 06.11.1984 by order of the Collector. It is further maintained inter alia that three days after, i.e., on 09.11.1984, the S.D.O., Angul recommended the case for revalidation of the sanction order to the Collector, Dhenkanal and the Collector, Dhenkanal sanctioned the revalidated order by granting lease in favour of opposite party no.3 with correct name, but the opposite parties 1 and 2 alleged the same to be violation of Rule-11 of the O.G.L.S. Rules, 1983. It is the claim of the opposite parties 1 and 2 that the revalidation being made quickly at the instance of the then S.D.O., Angul, who is the son-in-law of Manorama Lenka (mother of the petitioner), and managed to clear the sanction order within a short interval, the lease is liable to be quashed.

7. It is stated that, not only this but also before Patta was issued in favour of opposite party no.3-lessee, opposite party no.3 sold the case land to the mother of the petitioner under registered sale deed no.3335 dated 15.11.1984 for a consideration of Rs.15000/-. On 26.11.1984, the Patta was issued to the original lessee-opposite party no.3, but later on, the mutation was made in favour of the mother of the petitioner and a separate new Khata No.432/340 was created as per the order of the Tahasildar passed in Misc. Case No.317 of 1985 with "STITIBAN" status, which is allegedly illegal.

8. It is the further case of the opposite parties 1 and 2 that on 26.12.1985, a public complaint was lodged against the then S.D.O., Angul whose mother-in-law got the case property recorded in her name and a vigilance case was started. So, the case for cancellation of lease was filed disputing the eligibility of opposite party no.3 for getting the lease of the case land vide Revision Case No.1 of 1998. It is also alleged inter alia that the opposite party no.3 was possessing Ac.7.275 of land earlier for which he was not found eligible to be considered for sanction of lease. Since the execution of registered sale deed was got managed by the mother of the petitioner at the instance of the S.D.O., Angul, the said lease deed is also taken with fraud. Thus, the opposite parties 1 and 2 challenged the order of sanction of lease in favour of opposite party no.2 as well as transfer of the case land in favour of Manorama Lenka, who is no more but being succeeded by the present petitioner and proforma opposite parties 4 to 7.

9. The petitioner filed rejoinder challenging the averments made in the counter affidavit filed by the opposite parties 1 and 2. The facts stated in the writ petition have been reiterated in the rejoinder. However, it is maintained in the rejoinder that Rule 11 of the O.G.L.S. Rules, 1983 has not been violated and the lease in favour of the opposite party no.3 by the Tahasildar and registration of the sale deed in his favour on the basis of the order of sanction is absolutely justified and cannot be questionable. Since the lease has been granted with heritable and transferable right over the case land, the said lease deed in favour of the mother of the petitioner by the opposite party no.3 is absolutely correct and legal. The

allegation of the opposite parties 1 and 2 in their counter affidavit about the involvement of the then S.D.O., Angul to get the case land sold in favour of the mother of the petitioner cannot take away the procedure of law to be followed by the authorities. The allegation about so called inquiry alleged to have been conducted against the S.D.O., Angul for acquisition of land in the name of her mother-in-law cannot be decided in this writ petition and no material is placed that the then S.D.O., Angul has gained any benefit out of recording of land in favour of Manorama Lenka, the mother-in-law of the then S.D.O., Angul.

10. Be it stated that none of the conditions of the lease has been violated in the instant case by the then S.D.O., Angul and it is specifically denied that opposite party no.3 was possessing Ac.7.275 decimals of land including Ac.0.85 decimals of homestead land. Since neither the lease granted in favour of opposite party no.3 was void nor the subsequent sale is void, the question of raising such plea to negative the case of the petitioner does not arise. On the other hand, the RDC being not the appropriate authority as per the provisions of law to adjudicate the revision case, the proceeding in question is non-est in law.

11. SUBMISSIONS Mr.Mohanty, learned Senior counsel for the petitioner submitted that the case land was originally settled in favour of opposite party no.3 but subsequently that land was sold to the mother of the petitioner on payment of consideration of Rs.15000/-. Again the same case land was directly acquired by the mother of the petitioner by way of fresh lease under the Act, 1962 with fresh lease deed executed by the concerned S.D.O. According to him, when the original lessee has already transferred the leasehold right in favour of the mother of the petitioner in 1984 after having got permission from the Collector Dhenkanal, the right of the original lessee no more existed thereafter.

12. Mr.Mohanty, learned counsel for the petitioner further submitted that since the lease deed was executed on the same day when the registered sale deed was executed on the application of the mother of the petitioner in order to reinforce the leasehold right, the S.D.O., Angul executed the registered lease deed in favour of the mother of the petitioner and thus the mother of the petitioner continued to possess the same by constructing house thereon. It is submitted that the S.D.O., Angul, being the competent authority, executed the registered lease deed which cannot be lost sight of and it gives more strength to leasehold right of the mother of the petitioner and consequently of the petitioner and proforma opposite parties 4 to 7.

13. Mr.Mohanty, learned counsel for the petitioner further contended that no appeal was filed either against the lease granted in favour of the opposite party no.3 or in favour of the mother of the petitioner for which the settlement has become final. Under Section 7- A(1) of the Act, 1962, revision lies to the Collector against the order of settlement made under Sub-section (1) or Sub-Section (3) of Section 7 by a Sub-Divisional Officer and the RDC may revise any order made under that sub-section by the Collector, if an application is made by the aggrieved person within a period of ninety days from the date of the order.

Since in the instant case, orders were passed by the S.D.O., Angul, RDC is not the competent authority to dispose of the revision and for that in the instant case, the proceeding before the RDC is illegal and improper and suffers from lack of on the part of the RDC to decide the same.

14. He further submitted that the case land is a Nazul Land and by virtue of Amendment Act 1 of 1991, the RDC has no jurisdiction to exercise the power of revision to cancel the lease in question. According to him, since there is no appeal against the impugned order of settlement, the revisional authority has no role or locus standi to cancel the lease.

15. Mr.Pattnaik, learned Additional Government Advocate, on the other hand, submitted that basing on a public complaint dated 26.12.1985, the State Government in Revenue Department directed for an inquiry and prior to that, the Commissioner-cum-Secretary to Government, Revenue Department has asked the Collector, Dhenkanal in his confidential letter dated 19.12.1985 to cause an inquiry regarding acquisition of a house site on lease by the then S.D.O., Angul in the name of his mother-in-law basing on the letter dated 11.11.1985 of the Director, Vigilance-cum-I.G. of Police. The Secretary to RDC also conducted an inquiry on 27.12.1985 and basing on all these materials, Revision Case No.1 of 1998 was started by the RDC for cancellation of the lease. It is also pleaded by the learned Additional Government Advocate that opposite party no.3 was possessing Ac.7.275 decimals of land including Ac.0.85 decimals of homestead land for which he was not eligible to get the lease of the case land. It is further submitted that the opposite party no.3 has contravened Clause Nos.4, 5, 6 and 10 of the conditions of the lease and even before correction of the ROR, the S.D.O., Angul managed to get the sale deed registered on 15.11.1984 in favour of his mother-in-law. He also cited the decision of the Hon''ble Supreme Court in the case of Kiran Singh and Others -V- Chaman Paswan and Others; AIR 1954 SC 340 where decree passed without jurisdiction is a nullity. He also cited the decision of the Hon''ble Supreme Court in the case of State of Orissa and Others; -VBrundaban Sharma; 1995 Supp. (3) SC 249 where it is clearly held that a void order is non-est order and it confers no title and its validity can be questioned or invalidity be set up in any proceeding at any stage.

16. POINTS FOR CONSIDERATION The main points for consideration are: (I) Whether the mother of the petitioner has got leasehold right over the case land? and

(II) Whether the proceeding vide Revision Case No.1 of 1998 is illegal and improper?

17. DISCUSSIONS POINT NO.(I)

It is not in dispute that the opposite party no.3 was granted the lease for Ac.0.09 decimals of homestead purpose under Town Lease Case No.111 of 1997. It is the admitted fact that the S.D.O., Angul recommended the case to the Collector, Dhenkanal on 17.05.1975 and finally the RDC has sanctioned the lease sought to

be implemented on 12.07.1978 and on 13.11.1984 the lease deed was executed and signed by the then competent authority in favour of the opposite party no.3.

18. Learned counsel for the petitioner submitted that opposite party no.3 sought permission for transfer of the case land in favour of one Manorama Lenka, who is the mother of the petitioner, as he was in urgent need of money, of course before the ROR was issued, but by that time, the case land has already been transferred by the registered sale deed in favour of the petitioner's mother on 15.11.1984. On the other hand, opposite parties 1 and 2 alleged that in a very short interval, at the instance of the S.D.O., Angul, the registered sale deed was executed before the transfer of the case land by lease deed duly executed by the then S.D.O., Angul.

19. Learned Additional Government Advocate further submitted that the lease record from the concerned Tahasildar has been called for and the same may be perused to find out the defect in the proceeding adopted by the then S.D.O., Angul. On perusal of the same, it appears that on the application of opposite party no.3, the lease case has been initiated in 1971 and after issuance of the general notice and that too no objection was filed for the purpose it is used, the same was recommended by the Tahasildar to the S.D.O., Angul. After receiving the recommendation of the Nazul Committee, as it is a Nazul land, the S.D.O., Angul recommended the case land for settlement under Rule 20 of the Orissa State Urban Land Settlement Rules, 1959 to the RDC through Collector, Dhenkanal. The order dated 27.07.1978 passed in the lease case records shows that the case land, after being sanctioned for creation of lease in favour of opposite party no.3, S.D.O., Angul asked for payment of Rs.1800/- as premium. The order-sheet of the lease case record also shows that after the said premium was paid on 10.01.1979, the lease deed was produced by opposite party no.3 on 20. 05.1982 for execution. Further order-sheet shows that delay in submission of lease deed is not a ground to reject the lease for which the record was moved again for revalidation of the lease to the RDC through Collector. The records also speak that on 30.09.1984, the Collector, Dhenkanal recommended for grant of lease in favour of Ekadasi Rout instead of Ekadasi Pradhan. Further order-sheet dated 09.11.1984 shows that lease record was not placed before the RDC but was placed before the Collector for revalidation because of the change of Rule 11 of the O.G.L.S. Rules, 1983. On the same day, revalidation of sanction of lease was made in favour of opposite party no.3 by the Collector, Dhenkanal. Here, learned Additional Government Advocate posed a question as to how the file was being placed on the same day before the S.D.O., Angul and Collector, Dhenkanal unless there is vested interest of the S.D.O., Angul. The erstwhile undivided district of Dhenkanal has sub-divisional headquarters at Angul and no material is placed to find out impossibility of getting the file done on the same day. It is not uncommon for the administrative machinery to attend the file on the same day. So, without proving, the doubt remained as doubt but cannot be placed as a substitution of legal proof. Further, the order of the settlement was revalidated at the instance of the Collector, Dhenkanal.

20. On going through Rule-11 of the O.G.L.S. Rules, 1983 read with Schedule-II, it appears that in the year 1984, the new Rule has come. So, under Rule-11 of said Rules of 1983 read with Item No.7 of Schedule-II, the Collector was competent to exercise power for sanction of lease in favour of the individuals for homestead purpose. Although the learned State Counsel has taken a stand that Rule-11 has been violated having been revalidated by the Collector, there is nothing found illegality for sanction of the lease by the Collector, who by amendment of the Rule, became the authority to sanction the lease. So, order of revalidation under Rule-11 of the O.G.L.S. Rules, 1983 cannot said to be wrong and illegal.

21. The above records further reveal that on 24.11.1984, lease agreement was executed between the opposite party no.3 and the then S.D.O., Angul and subsequently on 26.11.1984, the record was corrected and order was passed to issue ROR. On perusal of the registered sale deed, it appears that lease was granted for ninety years in favour of the opposite party no.3. Such lease being permanent lease is undoubtedly transferable and heritable. The plea of the petitioner that opposite party no.3, being in urgent need of money, approached the mother of the petitioner and accordingly, a separate lease deed was executed by the State in favour of the mother of the petitioner. The lease record called for also shows that on 23.12.1984, opposite party no.3 sought for permission for transfer of the case land in favour of the mother of the petitioner and it was started vide Sale Permission Case No.1 of 1985. The opposite parties 1 and 2 have not stated about such fact for the reasons best know to them. On going through the records of Sale Permission Case No.1 of 1985, it appears that the case land was sold to the mother of the petitioner vide registered sale deed no.3335 of 1984 on payment of consideration of Rs.15000/- before the permission was granted by the State Government for sale to mother of the petitioner. But, the record was transmitted by the S.D.O., Angul to the Collector for granting Ex-post facto permission to transfer the land in favour of the mother of the petitioner. Here, the question arises that how can there be sale of the case land by the lessee, opposite party no.3 in favour of the mother of the petitioner without obtaining permission? The sale deed refers to 15.11.1984, as admitted by both the parties and Misc. Case was filed on 23.12.1984 seeking permission. However, the order-sheet shows that the then Tahasildar having found the genuineness of the transfer of the land in favour of the mother of the petitioner recommending the case for granting Ex-post facto permission. The order-sheet dated 19.07.1985 shows that Ex-post facto permission was obtained from the Collector, Dhenakanal and, therefore, the order was passed on that day directing the petitioner to pay 12 times annual rental of the case land as penalty and as such, the Ex-post facto permission was granted. This fact is not denied by the opposite parties 1 and 2 in their counter affidavit.

22. Annexure-1, the certified copy of the registered sale deed shows that the original lessee, opposite party no.3 sold the case land to the mother of the petitioner on payment of consideration of Rs.15000/- on 15.11.1984. But the

lease deed dated 24.01.1985 (Annexure-2) shows that a fresh lease deed was executed by the S.D.O., Angul in favour of the mother of the petitioner in pursuance of the order passed in Sale Permission Case No.1 of 1985, which has been very much discussed in the above paragraphs. Now, the question arises when the prior permission was not obtained, how can there be said that the sale deed (Annexure-2) was legal and proper? Annexure-2 shows that a fresh lease deed was executed between the mother of the petitioner and the S.D.O., Angul on behalf of the Governor, Orissa and the same was registered in pursuance of the order passed in Sale Permission Case No.1 of 1985. It has to be tested whether such lease deed was valid even if the Ex-post facto approval obtained. Not only this but also a fresh lease deed has been executed by the S.D.O., Angul in favour of the mother of the petitioner as the land has been transferred and such transfer has been approved Ex-post facto. Here, Mr.Mohanty, learned counsel for the petitioner submitted that Section 43 of the Transfer of Property Act, 1882 makes the transfer valid. The provisions of Section 43 are produced below for better reference: "43. Transfer by unauthorised person who subsequently acquires interest in property transferred:-

Where a person fraudulently or erroneously represents that he is authorised to transfer certain immovable property and professes to transfer such property for consideration, such transfer shall, at the option of the transferee, operate on any interest which the transferor may acquire in such property at any time during which the contract of transfer subsists. Nothing in this section shall impair the right of transferees in good faith for consideration without notice of the existence of the said option."

With reference to the aforesaid provision of law, in the instant case, when the sale deed was executed by the opposite party no.3 in favour of the mother of the petitioner, no permission has been obtained, but such defect has been removed by giving permission by the competent authority, which was received later to the execution of sale deed, at the same time the leasehold right transferred by the opposite party no.3 in favour of the mother of the petitioner is validated from 24.01.1985 being executed by the S.D.O., Angul in favour of the mother of the petitioner. On the other hand, the defect as to transfer of the leasehold right by the opposite party no.3 in favour of the mother of the petitioner does not stand on the way under law as she acquires such right in the property having been created vide lease deed dated 24.01.1985.

23. In view of the aforesaid analysis, it cannot be said that the mother of the petitioner has not acquired any right or interest in the case property. The contention of Mr.Pattnaik, learned Additional Government Advocate that the S.D.O., Angul, at that time, being relative of the mother of Monorama Lenka, the mother of the petitioner, could manage to get all documents executed at a quick spell for which the State Vigilance has been reported and the inquiry is going on. Since no material is produced by the opposite parties 1 and 2 to show any proof of relation between the then S.D.O., Angul and the mother of the petitioner and

biasness of the then S.D.O., Angul including the outcome of vigilance matter, it must be held that the mother of the petitioner has been endowed with leasehold right over the case land. On the other hand, we are of the opinion that the mother of the petitioner has unquestionable leasehold right over the case land. The learned State Counsel vehemently urged that the case land has been illegally settled in favour of the opposite party no.3 and also in favour of the mother of the present petitioner but such argument has not been countenanced with any material. When there is procedure properly followed, the lease deed and the sale deed have been executed and fresh lease deed has been executed in favour of the mother of the petitioner after obtaining Ex-post facto approval, the contention of the learned Additional Government Advocate finds no merit. Thus, in the facts and circumstances of the case, we are of the view that the settlement of land in favour of the opposite party no.3 is legal and proper and subsequently acquiring the right in the property by the mother of the petitioner is equally lawful and proper. The Point No.(I) is answered accordingly.

24. POINT NO.(II) The contention of Mr.Mohanty, learned counsel for the petitioner that the RDC has no power to initiate revision proceeding against the order of settlement passed by the S.D.O., Angul either in favour of the opposite party no.3 or in favour of the mother of the petitioner requires scrutiny. But, at the same time, learned Additional Government Advocate has submitted that the revision proceeding has been started justifiably as there was public complaint and enquiry by the State Government in the Department of Revenue against the then S.D.O., Angul coupled with the report of the Director, Vigilance-cum-I.G. of Police and the lease granted in favour of the opposite party no.3 allegedly with fraud and misrepresentation.

25. Learned Additional Government Advocate has not produced material to show that opposite party no.3 was possessing Ac.7.275 decimals of land which includes Ac.0.85 decimals of homestead land. Also the State has not produced any inquiry report or any material as contended by it to prompt the Collector for filing Revision Case No.1 of 1998 before the RDC. On the other hand, it has been observed in above paragraphs that order of settlement of lease over the case land in 1984 and fresh lease deed in favour of the mother of the petitioner are all valid and proper. When the lease has already been sanctioned in 1984 and lease deed has been executed on 13.11.1984, the mutation of the case land in favour of the opposite party no.3 only remained as correction of ROR which was consequential official act in case of lease granted by the State. When there is a fresh lease deed dated 24.01.1985 and said sale deed executed, lessee Manorama Lenka got leasehold right to her credit. In pursuance of such execution of the lease deed, the publication of the ROR requires mutation, which is only follow up action requiring no further adjudication. So, question of fraud or misrepresentation, being not proved by the State, falls short. Hence, the decision reported in Kiran Singh and Others -V- Chaman Paswan and Others and State of Orissa and Others -V- Brundaban Sharma (Supra) are not applicable to the facts and circumstances of the present case.

26. Section 7-A of the Act, 1962 speaks as under: "7-A. Revision.

(1)The Collector may revise any order made under sub-section (1) or under Sub-section (3) of section 7 by a Sub-divisional Officer; and the Revenue Divisional Commissioner may revise any order made under that sub-section by the Collector, if an application is made by the aggrieved person within a period of ninety days from the date of the order:

Provided that the Collector or the Revenue Divisional Commissioner, as the case may be, may admit an application under this sub-section after the expiration of the aforesaid period of ninety days if he is satisfied that the applicant had sufficient cause for not making the application within that period.

(2)All applications for revision under sub section (1) shall be heard and disposed of in such manner as may be prescribed.

(3) The Board of Revenue may of its own motion or otherwise call for and examine the records of any proceedings in which any authority subordinate to it has passed an order under this Act for the purpose of satisfying itself that any such order was not passed under a mistake of fact or owing to fraud or misrepresentation (Inserted by the Orissa Government Land Settlement (Amendment) Act, 1976 (Or. Act 38 of 1976), S. 2 (a)) [or on account of any material irregularity in procedure], and may pass such order thereon as it thinks fit:

Provided that no order shall be passed under this sub-section unless the person affected by the proposed order has been given a reasonable opportunity of being heard in the matter."

The aforesaid provision makes it clear that the Collector may revise any order passed under Sub-Section 1 or Sub-Section-3 of Section 7 by Sub-Divisional Officer and Revenue Divisional Commissioner may also revise any order passed under same Subsections by the Collector if an application is made by the aggrieved person within a period of ninety days from the date of order. In the present case, admittedly no appeal has been preferred against the order of settlement of lease either in favour of the opposite party no.3 or in favour of the mother of the petitioner. Similarly, under Sub-section 3 of Section 7A, the Board of Revenue has got power to call for records and to examine the same on his own motion or otherwise in which authority sub-ordinate to him has passed order under mistake of facts or owing to a fraud or misrepresentation or on account of material irregularity of procedure. Above all, the Collector is the competent authority to exercise power against order passed under sub-section 1 or sub-section 3 of Section 7 by the Sub-Collector (S.D.O.) while considering the facts and circumstances of the case. When the RDC has started proceeding vide Revision Case No.1 of 1998, it must be held that bereft of absence of any material to start the revision, the RDC has no competency to issue notice and dispose of the revision case. On the other hand, there is force with the submission of Mr.Mohanty, learned counsel for the petitioner.

27. On the whole, it appears that the proceeding Vide Revision Case No.1 of 1998 initiated at the instance of the RDC is void as the same has been started without having jurisdiction. Thus, as per the decision reported in Kiran Singh and Others (Supra) the proceeding initiated by the RDC being not entrusted to do so is not maintainable. When the RDC has no authority to initiate the proceeding, we are of the view the revision proceeding vide Revision Case No.1 of 1998 is illegal and improper and liable to be quashed. Point No.(II) is answered accordingly.

28. CONCLUSION In the writ petition, the petitioner has prayed to quash the proceeding vide Revision Case No.1 of 1998 pending before the R.D.C., Sambalpur. We have already observed above that the settlement of land in favour of the opposite party no.3 is legal and proper and consequently acquiring the leasehold right in the property by the mother of the petitioner is equally lawful and proper. It is also observed above that Revision Case No.1 of 1998 initiated at the instance of R.D.C., Sambalpur is void as the same has been exercised without jurisdiction. Hence, we are of the view that the proceeding in Revision Case No.1 of 1998 is liable to be quashed and the Court do so. The writ petition is allowed.