

(2003) 03 OHC CK 0086
In the Orissa High Court
Case No : A.H.O. No. 211 of 2001

Ram Narayan Mohanty

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 25-03-2003

Acts Referred:

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

Citation : (2003) 1 OLR 486

Hon'ble Judges : B.P. Das, J;B. Panigrahi, J

Bench : Division Bench

Advocate : Subrata Kumar Mohanty and S. Mohanty, for the Appellant;
Additional Government Advocate, for the Respondent

Judgement

1. In this case the order passed by a learned Single Judge of this Court in O.J.C. No. 12939 of 2001 is under challenge.
2. The disputed plot was leased out to one Kandabal Muchu under the provisions of the Orissa Government Land Settlement Act, 1962 and the rules framed thereunder.
3. It appears that the lessee applied for permission from the concerned Revenue Officer for transfer of the land in favour of the writ petitioner. But, Additional District Magistrate started a suo motu proceeding for cancellation of the lease. It is submitted that the lessee was permitted to sell the lease hold land in favour of the petitioner. But the Addl. District Magistrate cancelled the lease because such transfer, according to him, was not bona fide.
4. A suo motu revisional proceeding was initiated u/s 7-A(3) of the O.G.L.S. Act, 1962. The revisional authority cancelled the lease granted in favour of the petitioner's vendor. Therefore, the petitioner filed a writ petition in O.J.C. No. 12939 of 2001 challenging the order of the revisional authority. But the learned Single Judge of this Court having found that a proceeding was initiated on 7.3.1998 and the land was sold to the petitioner on 18.5.1998 i.e. after the

initiation of the proceeding, therefore, the vendee was held to be not a necessary party in the Revisional proceeding. Thus, the Revisional authority was justified in not issuing notice to the writ petitioner.

5. The learned counsel appearing for the petitioner has submitted that the writ petitioner was not given a chance to ventilate his grievance before the revisional authority. Therefore, the revisional authority has not followed the principle of natural justice as a reason whereof, substantial injustice has been caused to him. It is true that the revisional authority has power under the statute to initiate a suo motu proceeding for cancellation of the lease, if in his opinion such transfer was not bona fide. But before such order could be passed, principle of natural justice demands that a chance should be given to a person, whose interest is likely to be affected. In this case, since such principle of natural justice has not been followed, we are therefore, inclined to vacate the order dated 9.10.2001 passed by the learned Single Judge of this Court as well as the order passed by the Additional District Magistrate, Khurda, Bhubaneswar in a suo motu proceeding in Revisional Case No. 13/1998 u/s 7-A(3) of O.G.L.S. Act, 1962. We, however, direct that the matter should be heard afresh by the revisional authority after hearing the petitioner and his vendor as well it shall pass a reasoned order within four months from the date of communication of this order.

With the above direction the A.H.O. is disposed of.