
(2023) 01 OHC CK 0059
In the Orissa High Court
Case No : Writ Petition (C) No.2916 Of 2018

Rupalaxmi Sethi

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 13-01-2023

Acts Referred:

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

Citation : (2023) 01 OHC CK 0059

Hon'ble Judges : Arindam Sinha, J;S. K. Mishra, J

Bench : Division Bench

Advocate : G. M. Rath, S. K. Padhy, D. Varadwaj, A. P. Rath

Final Decision : Disposed Of

Judgement

Arindam Sinha, J.

1. Mr. Padhy, led by Mr. Rath, learned advocates appear on behalf of petitioner. With leave of his leader Mr. Padhy submits, his client is one of successive subsequent purchasers, from original allottee, in respect of the leasehold interest transferred to him. Lease Revision Case no.9 of 2015 was initiated suo motu by the authority. In said case by impugned order dated 8th November, 2017 the authority cancelled the lease sanctioned in favour of original allottee, on 25th July, 1973.

2. Original allottee had transferred his leasehold interest in the meantime. Successive transfers were made and ultimately his client purchased leasehold interest in respect of part of original lease allotment. Other similarly placed purchasers had, by separate respective writ petition assailed impugned order passed in Lease Revision Cases initiated against them. By decision dated 11th December, 2019 of co-ordinate Bench in Acrux Realcon Pvt. Ltd. vs. State of Orissa, reported in 2020 (I) ILR-CUT, 262 orders passed by the Additional District Magistrate, Bhubaneswar in Lease Revision Case nos.1 to 13 of 2015, were set aside. Mr. Padhy points out, Lease Revision Case no.9 of 2015, dealt with by the

authority, is one of the cases, in which impugned orders herein passed was set aside by the co-ordinate Bench.

3. State filed Special Leave Petition, inter alia, against said decision. By order dated 27th November, 2020 in Special Leave Petition (Civil) no.20294 of 2020 (The State of Odisha and others vs. M/s. Acrux Realcon Pvt. Ltd.), the Supreme Court was not inclined to interfere with impugned order and accordingly the Special Leave Petition was dismissed.

4. Mr. Sharma, learned advocate, Additional Government Advocate appears on behalf of State. He submits, the Additional District Magistrate invoked provision in section 7-A (3) of Odisha Government Land Settlement Act, 1962. He relies on order dated 6th April, 2022 passed by the First Division Bench of this Court in, inter alia, W.P.(C) no.33349 of 2011 (Asha Hans vs. State of Odisha and others) to submit, said Bench took view that with fraud being played on the authority concerned, who failed to follow procedure and as a result illegality was committed, the Court was of considered view that the fraud detected, in that case, in year, 1998 and therefore, the authority had promptly taken action and proceeded to cancel the leases. He submits, this was also done regarding sanction of lease dated 27th July, 1973 to original lessee Hari Dehury. The cancellation was in respect of the lease and took effect against all subsequent transferees. He submits further, ground of limitation is not available to petitioner.

5. Only ground taken by petitioner is that impugned order stands covered by Acrux Realcon Pvt. Ltd. (supra). As aforesaid impugned order was passed in Lease Revision Case no.9 of 2015 being included in those Lease Revision Cases, on which it was made. The co-ordinate Bench had set aside the order. State had unsuccessfully petitioned for Special Leave Petition. In the circumstances, petitioner must succeed.

6. View taken in Asha Hans (supra) is of no aid to petitioner because the power under section 7-A(3) is to be exercised and was found to have been duly exercised in that case. In this case converse was found and decided by Acrux Realcon Pvt. Ltd. (supra).

7. Impugned order is set aside and quashed. The writ petition is allowed and disposed of. Petitioner is at liberty to produce this order and seek consequential action on her requirement to have her interest in the land recorded..

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