

(2023) 02 OHC CK 0021
In the Orissa High Court
Case No : Writ Appeal No. 96 Of 2017

Santosh Kumar Ray And Others

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 02-02-2023

Acts Referred:

Orissa Survey and Settlement Act, 1958 — Section 32

Citation : (2023) 02 OHC CK 0021

Hon'ble Judges : Dr. S. Muralidhar, CJ; M.S.Raman, J

Bench : Division Bench

Advocate : Sidhartha Mishra¹, Debakanta Mohanty

Final Decision : Disposed Of

Judgement

Dr. S. Muralidhar, CJ.

1. The challenge in the present writ appeal is to an order dated 29th March, 2017 passed by the learned Single Judge disposing of the Appellants' W.P.(C) No.1768 of 2017 relegating the Petitioners to the remedy of a revision petition under Section 32 of the Orissa Survey and Settlement Act, 1958 (OSS Act).

2. The background facts are that the above writ petition was filed by the Petitioners to challenge an order dated 27th May, 2013 passed by the Member, Board of Revenue in an application under Section 32 of the OSS Act in OSS Case No.335 of 2013 and the consequential order dated 29th June, 2013 passed by the Additional Sub-Collector-cum-Additional Settlement Officer, Puri in Remand OSS Case No.335 of 2013 allowing the appeal of the State of Odisha and directing the quashing of the recording of the names of the Petitioner's mother with respect to the land in question.

3. On 16th August, 2017 this Court stayed the operation of the impugned order dated 29th June, 2013 of the Additional Sub-Collector-cum-Additional Settlement Officer, Puri. That stay has continued till date.

4. Learned counsel appearing for the Appellants urges that under Section 32 of the OSS Act, there cannot be any application filed for invoking the revisional jurisdiction of the Board of Revenue because it is a 'suo motu' power. He further submits that the learned Single Judge ought to have remanded the matter to the Board of Revenue instead of requiring the Appellants to file an application.

5. Mr. Debakanta Mohanty, learned Additional Government Advocate, on the other hand, points out that there is nothing in Section 32 of the OSS Act that prohibits the filing of an application by an aggrieved person seeking to invoke the suo motu jurisdiction of the Board of Revenue.

6. Indeed, a perusal of Section 32 of the OSS Act reveals that while it does talk of the suo motu power being exercised by the Board of Revenue, it does not bar for filing of an application under that provision to invoke the jurisdiction of the Board of Revenue.

7. In that view of the matter, the Court is not inclined to interfere with the impugned order of the learned Single Judge. The interim order passed by this Court is hereby vacated. The Appellants will now prefer the revision petition before the Board of Revenue against the order dated 29th June, 2013 of the Additional Sub-Collector-cum-Additional Settlement Officer not later than 3rd April, 2023. If such revision petition is filed by that date accompanied by an application for condonation of delay explaining the delay on account of the pendency of the present writ appeal, then it will be taken into account in accordance with law by the Board of Revenue while examining the revision petition. Further, if such revision petition is filed within the time stipulated, then till such time the Board of Revenue passes an interim order in an application filed for that purpose, the interim order passed by this Court on 16th August, 2017 will continue, confined to the case of the present Appellants.

8. No further directions are called for in the present appeal and accordingly, it is disposed of.

9. An urgent certified copy of this order be issued as per rules.

.....