

(1976) 05 OHC CK 0002
In the Orissa High Court
Case No : M.A. No. 85 of 1975

Sarat Chandra Mohanty and Another

APPELLANT

Vs

Administrator, Jagannath Temple

RESPONDENT

Date of Decision : 05-05-1976

Acts Referred:

Land Acquisition Act, 1894 — Section 30, 6, 7, 8, 8A
Orissa Estates Abolition Act, 1951 — Section 6, 7
Sri Jagannath Temple Act, 1954 — Section 21(1), 5

Citation : (1976) 42 CLT 1241

Hon'ble Judges : S. Acharya, J

Bench : Single Bench

Advocate : M.N. Das and M.M. Das, for the Appellant; S. Misra, for the Respondent

Final Decision : Dismissed

Judgement

S. Acharya, J.—The impugned order has been passed by the Court below in a matter arising out of a reference u/s 30 of the Land Acquisition Act.

2. Ac. 0.215 decimals and Ac. 0.05 decimals of land appertaining respectively to plot No. 2229 and Plot No. 1837 under Khata No. 648 in village Lingipur, P.S. Bhubaneswar were required for the purpose of the Lingipur Distributary. For the said acquisition, an amount of Rs. 1817.5.1. was assessed as compensation to be paid to Sri Jagannath Mahaprabhu at Puri, Marfat Sarat Chandra Mohanty and Ramesh Chandra Mohanty (the Appellants in this appeal). The Administrator of Sri Jagannath Temple at Puri moved the Land Acquisition Officer for payment of the said compensation amount to him on behalf of Lord Jagannath. The above named Sarat Chandra Mohanty and Ramesh Chandra Mohanty opposed the said prayer of the Administration of Sri Jagannath Temple alleging that the lands "after vesting in the State Government under the Orissa Estate Abolition Act were settled with them personally and they only are entitled to get the compensation for the acquisition of the said lands. They further alleged that the

compensation assessed is not adequate and proper compensation for the same should be assessed and paid to them.

3. The Land Acquisition Officer on such claims" and counter claims referred the matter to the Court below u/s 30 of the Land Acquisition Act. The Court below has found that the lands acquired before vesting were "Debottar Rafatanki Madhyasatwndhikari" lands recorded in the name of Sri Jagannath Mahaprabhu at Puri under the marfatdarship of Hadlbandhu Mohanty, admittedly the father of Sarat Chandra Mohanty and Ramesh Chandra Mohanty, the Appellants in this

... appeal. On the above finding it holds that merely because the rent schedule under Sections 6, 7 and 8 of the Orissa Estate Abolition Act (hereinafter referred to as the "Act") in respect of the said lands has been issued in the names of the Appellants, the title in the said lands has not vested in them in their personal capacity. On the finding that Sri Jagannath Mahaprabhu of Puri was the actual intermediary in respect of the lands in question, the Court below has directed payment of the compensation amount to the Administrator of Sri Jagannath Temple who will receive the same for and on behalf of Sri Jagannath Mahaprabhu.

4. Admittedly the lands were "Debottar Rafatanki Madhyasatwadhikari lands and before the vesting of the estate those lands were recorded in the name of "Lord" Jagannath Mahaprabhu, Marfat Hadibandhu Mohanty, the father of the Appellants. The above fact is clearly evident from Ext 2, the record-of-rights filed by the Appellants in the Court - below. Further p.w. 1, one of the Appellants, has himself admitted in his deposition that "before vesting Lord Jagannath Mahaprabhu was the intermediary and my father was the Marfatdar of Lord Jagannath". It is admitted by both the parties that the lands in question vested ill the State under the Orissa Estate Abolition Act. This is possible by the blanket notification dated 29-4-1963. The recording of the names of the Appellants as tenants in respect of the lands in question in the rent roll Ext. 1 has been made under Sections 6, 7 and 8 of the Act, as is evident from Ext. 1, p.w. 1 has admitted in, his deposition that he and his brother Ramesh Chandra, the other Appellant in this appeal applied for setting the lands in question with them u/s 6 and 7 of the O.E.A. Act. In the same strain he has said that they made the sard application in their personal capacity representing themselves as intermediaries. On his own admission of the real fact that just before the vesting Lord Jagannath Mahaprabhu was the intermediary in respect of the lands in question and Hadihandhu Mohanty, the father of the Appellants, was only the Marfatdar of the Lord Jagannath for the said lands, those lands can be deemed to have been settled only with Load Jagannath under Sections 6 and 7 of the Act, and the Appellants who were only the Marfatdars could not have prayed for settlement of the said lands in their own names. The application made by the Appellants under Sections 6 and 7 of the O.E.A. Act for settlement of the lands in question in their names is not on record. But the very fact that p.w. 1 states that he and his brother applied for settlement of the said lands under Sections 6 and 7 of the Act and the fact that the rent roll Ext. 1 was prepared in accordance with the

provisions of Sections 6, 7 and 8 of the Act clearly indicate that the Marfatdars made the said application u/s 8-A, of the Act on behalf of the deity-intermediary, the Lord Jagannath of Puri. Lord Jagannath being an inanimate person capable of holding property, has to act in all such matters only through its Marfatdars. The word "Marfatdar" is applied to those who look after the management and routine duties in connection with an endowment. The Marfatdars therefore cannot rake up the position that the said properties are their own proper tie:: So, these erstwhile Marfatdars could not have made any application under Sections 6 and 7 read with Section 8-A, of the Act in their personal capacity. As these Marfatdars filed an application which could" have been filed only by the deity-intermediary, the said application has to be and should have been viewed as an application made on behalf of the deity intermediary, and the rent roll prepared on such application should be construed as settlement of the fair rent for the said lands in the name of the deity-intermediary, the Lord Jagannath of Puri. So the settlement of fair rent as per Ext. 1 showing the Marfatdars as tenants of the said lands is clearly a mistake or error. The said mistake or error was committed by the revenue authorities, who prepared the said rent roll as the Appellants in their said application admittedly represented themselves as the intermediaries of the said lands which certainly was nota fact. Moreover, p.w. 1 also admitted in his deposition that neither he nor his brother (the other Marfatdar) produced any document before the revenue officers in connection with their said application and that no enquiry was made for settling the said lands with them as tenants. So it is quite evident that because of the above-mentioned misrepresentation of fact by the Marfatdars and non-production of the relevant documents before the revenue authorities and their proceeding to settle the fair rent for the lands in the names of the Marfatdars without holding any enquiry into that matter, the above mentioned mistake or error was committed in the preparation of the rent roll Ext. 1. Moreover, the said Marfatdars having represented themselves as the intermediarite of the said lands are certainly guilty of wilful suppression of the real fact, and hence they cannot be allowed to reap any benefit out of the said illegal and unconscionable act.

5. Mr. Das, the learned Counsel for the Appellants, contended that after the vesting of the said lands in the State of Orissa under the O.E.A. Act, Lord Jagannath, the intermediary in respect of the said lands, lost all its right, title and interest" over the said lands, and so the State of Orissa, in whom the right, title and interest in the said lands vested in all its aspects, was free to settle the said lands with anybody if so desired, and as the State after vesting settled the lands with the Appellants as per Ext. 1 the intermediary could not have any say in the matter. From all that has been stated above it is evident that the State of Orissa has not settled these lands with the Appellants by any independent proceedings of settlement of lands conferring fresh right, title and interest on them. Only the rent roll Ext. 1 has been prepared. The facts and premises under which it was prepared have been dealt with in the preceding paragraph and it has been held that the entry showing the Appellants as tenants of the said lands

is clearly an incorrect entry. So the contention that the lands were settled with the Appellants by the State of Orissa is farfetched and without any substance.

6. As fair rent in respect of the lands in question has been determined under the provisions of Sections 6 and 7 of the Act and the Marfatdars of Lord Jagannath are shown as tenants in respect of the lands which belonged to Lord Jagannath, that settlement can be construed and deemed to be a settlement only in favour of the intermediary, i.e. Lord Jagannath of Puri. So the compensation amount for the acquisition of the said lands under the Land Acquisition Act can only be paid to Lord Jagannath of Puri through its present authorised agent. Under section. 5 of the Sri Jagannath Temple Act, 1955, the Temple Managing Committee, constituted under the said Act, is responsible for the administration and governance of the said Temple and its endowments vest in the said Committee. u/s 21(1) of the said Act the Administrator of Sri Jagannath Temple is the Secretary of the Temple Managing Committee and its Chief Executive Officer. So the compensation assessed by the Land Acquisition Officer for the acquisition of the said lands must now be paid to the Administrator of the Sri Jagannath Temple and not to the Appellants in this appeal who merely were the Marfatdars of Lord Jagannath in respect of the said lands prior to the vesting of the said lands in the State of Orissa under the O.E.A. Act.

7. Accordingly, the order of the Court below directing payment of the compensation amount to the Administrator of Sri Jagannath Temple is perfectly correct and is hereby confirmed.

8. There is, therefore, no merit in this appeal and it is accordingly dismissed with costs.