

(2023) 02 OHC CK 0127

In the Orissa High Court

Case No : Writ Petition (C) No. 33934 Of 2021

Sarojini Mishra

APPELLANT

Vs

Sub Collector, Bhubaneswar And Another

RESPONDENT

Date of Decision : 17-02-2023

Acts Referred:

Citation : (2023) 02 OHC CK 0127

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

Bench : Division Bench

Advocate : Prafulla Kumar Rath, G.N. Rout, A.R. Mohanta

Final Decision : Disposed Of

Judgement

1. Mr. Rath, learned advocate appears on behalf of petitioner and submits, there was direction made in our earlier order dated 11th January, 2023, for issuance of notice on opposite party no.3. He submits, there is record that postal item delivery was confirmed on the track report. Noticed opposite party no.3 goes unrepresented.

2. He submits, impugned is order dated 9th April, 2016, by which Bebandabasta Case no.33 of 1991 in respect of land his client is occupying was returned to the Tahsildar for being dealt with under circulars dated 6th December, 2000 and 2nd February, 2017. He submits, initially there was proceeding that resulted in remand to the Tahsildar. The remand consisted of a batch of cases. He draws attention to letter dated 31st July, 1999 of the Tahsildar, thereafter forwarding the cases considered on remand to the Sub-Collector for approval on fixation of rent. He demonstrates from the disclosure that there were 35 Bebandabasta cases on fixation of rent, forwarded to the Sub-Collector for approval. His client's case is serial no.17 bearing no.33 of 1991. The cases were dealt with for fixation of rent under circular dated 14th March, 1991. He submits, all the remand cases except his client's case were approved by the Sub-Collector. No reason was given for not approving his client's case on recommended rent fixation. Said order has

been impugned in his client's earlier filed writ petition W.P.(C) no.5331 of 2021. On query from Court Mr. Rath submits, it is from the subsequent order of Additional Tahasildar that his client came to know of the remand made by the Sub-Collector.

3. By impugned order the Sub-Collector directed consideration of his client's since pending case under circular dated 6th December, 2000 and 2nd February, 2017 to result in subsequent order dated 6th June, 2018 passed by the Tahasildar, robbing his client's tenant status, available to be recorded in the remarks column in RoR under circular dated 6th December, 2000.

4. At this stage Mr. Mohanta, learned advocate appears and submits, his leader is empanelled counsel of Lord Lingaraj Trust. He wants adjournment to obtain instruction. We deprecate conduct of opposite party no.3 in not having instructed their empanelled counsel inspite of notice duly served.

5. We made query to Mr. Rath as to how provisions in the subsequent circular affected his client. He submits, under sub-clause-(xviii) in clause 3 of circular dated 6th December, 2000 his client is entitled to have recorded his status of tenant in the remarks column of the RoR. By order dated 6th June, 2018 subsequently passed by the Additional Tahsildar, the land has been directed to be recorded in name of the trust without mention of his client occupying the land in status of tenant.

6. Mr. Rout, learned advocate, Additional Standing Counsel appears on behalf of State and submits, adjournment be granted to obtain instruction on submissions made that except petitioner's case, all other cases had been eaelier approved by the Sub-Collector in terms of circular dated 14th March, 1991.

7. We have perused the circulars. In sub-clause-(viii) under clause-4 of circular dated 14th March, 1991, settlement of land in Bebandabasta status had been provided for as in rayati status except the cases of personal service to deities or trusts. The circular dated 6th December, 2000 was made with reference to, inter alia, earlier circular dated 14th March, 1991 and it says it was necessitated since it was a matter of concern that many Bebandabasta holdings still continue in inchoate status and people continue to possess lands without paying any rent for the same. The Government desired a special drive for a period of one year and for the purpose the guidelines given in the circular were in supersession of all previous circulars. Looking back to earlier circular dated 14th March, 1991 we find, the object was that no land should be recorded in Bebandabasta status during settlement operation and for every Bebandabasta khata the Tahsildar was directed to start a case record and ask the concerned Tahsil to produce all documents etc. As pointed out by Mr. Rath, the circular dated 6th December, 2000 provided for record of status of tenants in the remarks column, which is absent in the directions made in circular dated 2nd February, 2017. We however have not found any direction for supersession in the 2017 circular.

8. By reason of prayer for adjournment and appearance by Mr. Mohanta we are

unable to deal with the case today. Adjournment granted is peremptory.

9. List for hearing and disposal on 14th March, 2023 along with W.P.(C) no.5331 of 2021.

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