
(2007) 04 OHC CK 0005
In the Orissa High Court

Smt. Ambika Dibya

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 02-04-2007

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2007) 103 CLT 708 : (2007) 1 OLR 723 Supp

Hon'ble Judges : S. Panda, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S. Panda, J.—In this Writ Petition, Petitioner has challenged the Order dated 11.12.2000 (Annexure-8) passed by the Commissioner Land Records and Settlement, Orissa, Cuttack in R.P Case No. 2641 of 1998 for correction of R.O.R under the Orissa Survey and Settlement Act.

2. The dispute relates to Hal consolidation plot No. 938 measuring Ac.2.70 decimals (P) out of Ac.7.40 decimals of Hal consolidation Khata No. 759 corresponding to 1973 Sabik Khata No. 639/1, plot No. 797/2788 P.S. Cuttack Sadar, Dist. Cuttack. Petitioner has filed the revision before the Commissioner, Land Records and Settlement, Orissa, Cuttack, u/s 15(b) of the Orissa Survey and Settlement Act, 1958 against the recording of Hal Plot No. 938, Ac.2.70 Dec. of Mouza Belgachhia.

3. The Commissioner perused the report of Consolidation Officer, Sadar Cuttack dated 15.9.2000 and the case records which revealed that the consolidation operation was started in the said area during the year 1983 when the consolidation scheme was de-notified u/s 5(1) of the Act vide Revenue Department Notification No. CH(Legis) 32/83-35616 dated 01.06.1983, and the consolidation authority have finally published the R.O.R. on 19.1.1984 u/s 13(4) of the Orissa Consolidation of Holdings and Prevention of Fragmentation of Land Act, 1972 in the name of the State Government, vide Annexure 7, where the

present disputed land was recorded as Rakhit Khata with classification "Gochar" bearing Khata No. 654. He also found that there was no evidence on record before the consolidation authority to show that the case land had been decided by the Commissioner Land Records and Settlement in Review Case No. 37 of 1978 in favour of the Petitioner which had arisen out of R.P. Case No. 3054 of 1975. The suit land was recorded as "Nijchas" land of the ex-intermediary with classification "Palo". The Petitioner has challenged the consolidation R.O.R Without any materials on record to prove that how she had acquired title in respect of ex-intermediary land and his land was not settled with, the ex-intermediary. The Commissioner has rightly rejected the revision filed by the Petitioner. The limited jurisdiction of the Commissioner is only to correct the R.O.R in accordance with the statutory provisions of Orissa Survey & Settlement Act within a period of one year. Admittedly, the Petitioner did not file the revision within that period but the Commissioner has condoned the delay and heard the matter on merit. As the dispute related to title of the Petitioner, which was not within the purview of jurisdiction of the Commissioner who has rejected the Petitioner's revision u/s 15(b) of Orissa Survey and Settlement Act. The Commissioner has to decide only whether the R.O.R required to be corrected or not.

4. The Commissioner considered all the materials on record and has passed the impugned order Annexure-8 in accordance with law. This Court by exercising jurisdiction under Articles 226 and 227 of the Constitution of India does not act as an Appellate Court. It does not review or reweigh the evidence upon which the determination of the inferior Court purports to have based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous but does not substitute its own view.

5. In view of the above, as there is no illegality or infirmity in the impugned order, Annexure-8, the same does not warrant interference of this Court.

The Writ Petition is accordingly dismissed.