
(2010) 10 OHC CK 0012

In the Orissa High Court

Case No : Writ Petition (C) No. 19943 of 2009

Smt. Bidyut Chhaya Patra

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 26-10-2010

Acts Referred:

Citation : (2011) 112 CLT 104 : (2011) 1 OLR 891 : (2011) 112 PLJR 104

Hon'ble Judges : B.P. Ray, J

Bench : Single Bench

Final Decision : Allowed

Judgement

B.P. Ray, J.—In this Writ Petition, the Petitioner has approached this Court seeking for a direction to issue certified copy of the Record of Rights appertaining to Hal Plot No. 1212 under Khata No. 438, measuring an area of Ac.0.20 decimals of land, Mouza Rajnagar in the district of Kendrapara.

2. The brief facts as revealed from the pleadings of the parties as well as from the para-wise report of the Tahasildar Rajnagar that the suit land was originally recorded in Sabik R.O.R. vide Khata No. 204, Plot No. 970, Kisam Bijesthali recorded in favour of Sri Raghaveswar Mahadev Bije Nijagan Sebayat Raja Rajendra Narayan Bhanja Deo with Niskar status. After settlement operation in the year 1990, the suit land was recorded in the "Bebandabasti" Khata vide Khata No. 438; Plot No. 1212, Kisam-Patita, Area Ac.0.43 recorded in the name of Raghaveswar Mahadev, Bije Nijagar, Sebayat Raja Silendra Narayan Bhanja Deo, S/o. Raja Rajendra Narayan Bhanja Deo.

3. One O.E.A. case was instituted on 2.12.1992 by OEA, Collector-cum-Tahasildar, Rajnagar for an area of Ac.0.20 dec., Plot No. 1212 under Khata No. 438 in favour of Raghaveswar Mahadev Bije Rajnagar, Sebayat Rabindra Narayan Bhanja Deo, S/o. Sailendra Narayan Bhanja Deo, Marfat - Bidyut Chhaya Patra, W/o. Late Ganeswar Patra of Dhandia Nuagaon. The Tahasildar has assessed rent in favour of Raghaveswar Mahadev Bije Rajnagar, Sebayat Rabindra Narayan

Bhanja Deo, S/o. Sailendra Narayan Bhanja Deo, Marfat Bidyut Chhaya Patra, W/o. Late Ganeswar Patra of Dhandia Nuagaon subject to payment of rent & salami with direction to R.K. to correct the R.O.R. on the basis of "Hatapatta" issued by the Debottar Manager of Kanika Palace on 1.7.1969 in favour of Sri Ganeswar Patra vide Khata No. 204/1, Plot No. 970/1, area Ac.0.20 dec. But case record was never sent to Sub-Collector, Kendrapara for confirmation. Subsequently another Bebandabasti Case No. 343/96 was instituted by O.E.A. Collector-cum-Tahasildar, Rajnagar for fixing of fair & equitable rent & on 7.12.2001, the Addl. Tahasildar ordered that the rent is to be assessed in the name of Raghaveswar Mahadev Bije Nijagan, Sebayat Rabindra Narayan Bhanja Deo, S/o. Sailendra Narayan Bhanja subject to payment of dues in pursuance of G.O. No. 57677, dtd. 6.12.2000 & the Sub-Collector, Kendrapara approved the same & after confirmation the R.O.R. was corrected & rent as well as cess was assessed in favour of Raghaveswar Mahadev Bije Rajnagar, Sebayat Rabindra Narayan Bhanja Deo, S/o. Sailendra Narayan Bhanja Deo.

4. The Opp. Party No. 5 has intervened in the matter opposing the claim of the Petitioner. The Learned Counsel for the Petitioner objected the stand of the Opp. Party No. 5 & has questioned that on what basis the suit land has been recorded in the name of Opp. Party No. 5 is not known inasmuch as no notice has been issued to the Petitioner nor proper notice inviting public objection has been made. The further case of the Petitioner is that the present intervener Petitioner is not the sole legal heir & in gross suppression of material facts & by manipulation of official records the second order has been passed.

5. Be that as it may, the earlier order passed in favour of Ganeswar Patra was never cancelled nor that has been challenged by any party. The office of Tahasildar never submitted the order passed in favour of Bidyut Chhaya Patra, W/o- Late Ganeswar Patra, the present Writ Petitioner, for confirmation to the office of the Sub-Collector, Kendrapara. The order remains as it is & is a valid order. The subsequent order passed by the Tahasildar, Rajnagar is a nullity.

In view of the aforesaid facts & submissions of the parties. I set aside the Order Dated 7.12.2001 passed by the Tahasildar & remit the matter back to the Tahasildar for consideration with the direction that the order passed earlier in favour of Bidyut Chhaya Patra, W/o. Late Ganeswar Patra be sent to the Sub-collector, Kendrapara for confirmation, if necessary, in accordance with law. The entire exercise shall be completed within a period of one month from the date of receipt of this order.

The Writ Petition is accordingly allowed.