
(2023) 02 OHC CK 0067
In the Orissa High Court
Case No : Writ Petition (C) No. 7480 Of 2016

Smt. Jyotsna Dash

APPELLANT

Vs

State Of Orissa And Others

RESPONDENT

Date of Decision : 08-02-2023

Acts Referred:

Odisha Government Land Settlement Act, 1962 — Section 2(b), 3
Orissa Communal Forest Private Lands (Prohibition of Alienation) Act, 1948 — Section 2(c)

Citation : (2023) 02 OHC CK 0067

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

Bench : Division Bench

Advocate : Jagjit Panda, G.N. Rout

Final Decision : Disposed Of

Judgement

Arindam Sinha, J

1. Petitioner is purchaser from original allottee. Lease of the allottee was cancelled. Petitioner had earlier moved this Court and the order of cancellation was set aside on the case restored to the authority. Petitioner thereafter filed another writ petition for expeditious disposal of the case.

2. Mr. Panda, learned advocate appears on behalf of petitioner and submits, by order dated 5th July, 2014 the Additional District Magistrate disposed of the case cancelling the lease. He submits, said order has been challenged by this writ petition. None of the reasons given in the order can be maintained, rendering the order as perverse. He submits, there is no indication in the order for finding that inquiry was not made, when the allotment happened. On leave obtained, he files affidavit dated 7th February, 2023 with copy to Mr. Rout, learned advocate, Additional Standing Counsel appearing on behalf of State.

3. He demonstrates from the affidavit, the Revenue Supervisor had found the land to bear kisam 'Chota Jungle'. The authority also found, inter alia, there was

no valuable forest growth in the land and reservation proceedings had been completed in the village. Subsequent to the allotment there has since been correction of the RoR to record kism of the land as 'Sarada-III'.

4. He draws attention to clause (b) in section 2, of Odisha Government Land Settlement Act, 1962 for definition of 'Government land' to include 'Chot Jungle'. He reiterates, impugned order is perverse and there should be interference and direction for recording his client's name in respect of the land.

5. Mr. Rout relies on Orissa Communal Forest Private Lands (Prohibition of Alienation) Act, 1948, section 2(c) for meaning of forest land. The clause is reproduced below.

"2(c) "forest land" includes any waste land containing shrubs and trees and any other class of land declared to be forest land by a notification of the State Government."

He submits, alienation of, inter alia, communal forest land is prohibited by section 3.

6. Impugned order purports to give three reasons. Firstly, no inquiry was made at the time of allotment as the proceeding was completed in sixty days. Secondly, original allottee sold away soon after having got allotment giving rise to presumption that he was not without sustainable income, a criterion for allotment of the land for agricultural purposes. Thirdly, the land having kism 'Chota Jungle' could not have been alienated as it was communal forest land.

7. First reason has been demonstrated as not based on material available. Affidavit filed today by petitioner shows that inquiry was made by the Revenue Supervisor. Nothing has been disclosed to disprove the statements made by the Revenue Supervisor as per report dated 25th July, 1973 disclosed in the affidavit. On the second reason we are constrained to observe that essence of property is transfer. That has nothing to do with eligibility of allottee in respect of allotment of Government land. This brings us to the third reason.

8. Clause (b) in section 2 in the Act of 1962 gives meaning of 'Government land' to include 'Chot Jungle'. Section 3 therein provides for reservation and settlement of Government land. We have with us said report of the Revenue Surveyor, to show that reservation proceeding was completed in the village and thereupon the authority exercised the right of Government to settle the land bearing kism 'Chot Jungle', to original allottee.

9. Impugned order is perverse. It is set aside and quashed. Concerned Revenue Authority is directed to forthwith cause mutation in the record to include petitioner's name against case land.

10. The writ petition is allowed and disposed of.

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