

(2023) 03 OHC CK 0166

In the Orissa High Court

Case No : Writ Petition (C) No. 5242 Of 2017

Smt. Subarna Ghosh

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 23-03-2023

Acts Referred:

Limitation Act, 1963 — Section 17

Odisha Government Land Settlement Act, 1962 — Section 7A(30)

Citation : (2023) 03 OHC CK 0166

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

Bench : Division Bench

Advocate : Prasanta Ku. Satapathy, G.N. Rout

Final Decision : Disposed Of

Judgement

1. Mr. Satapathy, learned advocate appears on behalf of petitioner and submits, his client is purchaser after 10 years of allotment of lease in respect of the land. There was no permission required, regarding the transfer. By impugned order dated 29th April, 1998 the authority cancelled order dated 7th November, 1974 of allotment of lease. The cancellation was beyond prescribed period of limitation of 14 years. Apart, his client was not noticed in the suo motu revision case. He submits, consistent view taken by this Court has been that there was requirement to notice the purchaser(s).

2. We have perused impugned order in revision dated 29th April, 1998, by which grant of lease by order dated 7th November, 1974 was cancelled with consequential directions. We find from impugned order, section 17 in Limitation Act, 1963 was relied upon to overcome the bar of limitation imposed by second proviso in, since repealed, section 7A(3) of Odisha Government Land Settlement Act, 1962.

3. We reproduce below paragraph-5 from our order dated 27th February, 2023.

"Perused the order-sheet disclosed as annexure-2 in the writ petition containing

orders dated 16th September, 1974 and 7th November, 1974 in W.L. Case no.2449 of 1974. It gives rise to necessity to call for the record since, State has alleged fraud. State will produce the record in W.L. Case no.2449 of 1974 on adjourned date. Adjournment is granted as opportunity to State, in spite of our observations recorded above. Hence, it is made clear, if the record is not produced on adjourned date, we will deal with the writ petition.”

4. Mr. Rout, learned advocate, Additional Standing Counsel appears on behalf of State and produces the record. He points out therefrom that kizam of land in respect of the grant is ‘Chot Jungle’. The lease was for purpose of agriculture. There was finding that the land had not been used for the purpose lease was granted.

5. The points arising for adjudication in this writ petition all stand adjudicated and thereby covered by our judgment dated 2nd March, 2023 in W.P.(C) no.10073 of 2016 (Bidyadhar Dash v. State of Odisha and others).

6. Impugned order dated 29th April, 1998 cancelling the lease is set aside and quashed. Concerned authorities will cause correction in the record within four weeks of communication.

7. The writ petition is disposed of.

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