
(2021) 08 OHC CK 0106
In the Orissa High Court
Case No : Writ Appeal No. 90 Of 2015

Somnath Shastry

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 19-08-2021

Acts Referred:

Citation : (2021) 08 OHC CK 0106

Hon'ble Judges : Dr. S. Muralidhar, CJ; B. P. Routray, J

Bench : Division Bench

Advocate : D.N. Patnaik, Bibhuti Bhusan Mishra

Final Decision : Dismissed

Judgement

Â B.P. Routray, J

1. Aggrieved by the order dated 16th February, 2015 of the learned Single Judge in W.P.(C) No.1032 of 2013, the Appellant has come up in the present appeal.

2. In the writ petition, the Appellant had prayed as follows:-

â??i) To struck down / cancel the â??Certificate of Registrationâ? dated 4th February, 2011 under Annexure-13 as it does not reflect the name of the Petitioner who

is equal/co-owner like Opposite Party No.6 (B.K. Shastry).

ii) To direct the Opposite Party No.1 (Registrar of Newspapers for India) not to wipe out the name of the Petitioner from the â??Certificate of Registrationâ? of Newspaper â??Orissa Timesâ? till disposal of the C.S. No.416 of 2009 pending before the Additional Civil Judge (Sr. Division) 1st Court, Cuttack.

iii) To pass any other orders/directions as deemed fit and proper to the fact and circumstances of this case.â??

3. Appellant and Respondent No.6 are two brothers. It is claimed that the Newspaper namely "Orissa Times" has been founded by their late

father Raghunath Pathy Shastri. There was a Family Partition Agreement on 16th June, 1992 and as per the same the ownership of the Newspaper

will be with the Appellant, Respondent No.6 and their late father in equal shares. R.P. Shastri, the late father of the Appellant died in the year 2011

and it is stated that prior to his death he executed a Power of Attorney as well as a Will in favour of the Appellant concerning ownership of the

Newspaper in question. But Respondent No.6, behind the back of the Appellant and taking advantage of dementia disease of their late father was

managed to get ownership of the Newspaper in his favour entirely. Few days after the death of the late father, the authorities have made change in

the Registration Certificate of the Newspaper "Orissa Times" completely in favour of Respondent No.6 without any notice to the Appellant. It is

also stated by the Appellant that a Partition Suit in CS No.416 of 2009 before the Civil Judge (Sr. Division), 1st Court, Cuttack was filed by him

claiming partition in the properties. This was challenged in the writ petition.

4. The learned Single Judge, by order dated 16th February, 2015, dismissed the writ petition by observing that, the Court is not inclined to entertain the

writ petition at this stage in view of the dispute involved in the civil suit.

5. The Appellant contends that, since the action of Respondent No.5, i.e. Press Council of India to delete the name of the Appellant from the

Registration Certification of the Newspaper has been challenged, it is nothing to do with the dispute involved in the civil suit and as such, the order of

learned Single Judge is bad in the eye of law.

6. Learned counsel for Respondent No.6 disputes the Family Partition Agreement and also denies the validity of any Power of Attorney or Will

executed in favour of the Appellant. It is further submitted by him that the issues in CS No.416 of 2009 include the present dispute and the same, in

the meantime has been dismissed as withdrawn and besides that, another suit and probate filed by the Appellant has also been withdrawn by him. The

revised Certificate of Registration has been granted by the Registrar of Newspapers for India in accordance with Law as per the Registered Sale

Deed (R.S.D.) executed in favour of Respondent No.6 by their late father. Presently another case in Civil Suit No.347 of 2021 filed by the Appellant

involving the dispute is also pending.

7. It appears from the contentions of the parties that the sole dispute is relating to the ownership of the Newspaper. It further appears that there are

many disputed questions of facts involved in the writ petition, particularly in view of alleged execution of one Will and one R.S.D. in favour of

respective parties. It is seen that the foundation of the claim of the Appellant is based on the execution of Power of Attorney and a Will. The original

ownership of the Newspaper in favour of late father of the Appellant is not disputed by any of the parties. It further appears that this is purely a civil

dispute in between two brothers, viz., the Appellant and Respondent No.6 and the issue involves disputed questions of fact which cannot be effectively

adjudicated without taking evidence on record.

8. Admittedly this Court in writ jurisdiction cannot be converted to a fact finding Court. As such, the learned Single Judge has rightly observed not to

entertain the writ petition in view of dispute involved in the Civil Suit.

9. Accordingly, we are not inclined to interfere with the order of the learned Single Judge.

10. The writ appeal is dismissed.

11. An urgent certified copy of this order be issued as per rules.

â?|â?|â?|â?|â?|â?|â?|â?|â?|â?|