

(1978) 08 OHC CK 0005

In the Orissa High Court

Case No : Original Jurisdiction Case No. 2280 of 1975

Sri Natha Rout and Others

APPELLANT

Vs

Biswanath Patra and Others

RESPONDENT

Date of Decision : 17-08-1978

Acts Referred:

Orissa Land Reforms Act, 1960 — Section 15, 21

Citation : (1978) 46 CLT 427

Hon'ble Judges : R.N. Misra, J;P.K. Mohanti, J

Bench : Division Bench

Advocate : M. Patra, for the Appellant; A.K. Tripathy and Additional Government Advocate, for the Respondent

Judgement

R.N. Misra, J.—Petitioners allege that they are occupancy tenants at certain lands in mauzi Tanganataila within the Rajnagar area of Cuttack district. River Brahamani flows by their lands on the northern side. On account of the recess of the river, there has been a gradual accretion of about 25.00 acres of land to the Petitioners land and for more than thirty years, the additional and has been in possession and enjoyment of the Petitioners and their ancestors. On the aforesaid averments they made an application to the Revenue Officer u/s 21 of the Orissa Land Reforms Act (hereinafter referred to as the "Act") and the application came to be registered as O. L. R. Case No. 30 of 1975. The Revenue Officer rejected the application and allowed temporary leases of these lands in favour of certain members of the Scheduled Castes who have been impleaded as opposite parties in the writ application. Petitioners thereupon preferred an appeal before the Sub-Divisional Officer and it was registered as O. L R. Appeal No. 34 of 1975. On 14-7-1975 that appeal was admitted and thus the Revenue Officer was directed to stay further proceedings. While the appeal was pending and the matter stood adjourned to a different date, the following order was made by the appellate authority on 25-10-1975:

"Record put up today in response to a wireless message received from the O. I.

C., Rajnagar, P. S. It reveals that there is apprehension of serious breach of peace between the villagers of Tanganataila and Santha-pada regarding harvesting of the paddy crop standing on the suit land. Direct the Tahsildar, Kanika to appoint the local R. I. as receiver in respect of the case land. The receiver will harvest the standing crops in presence of both the parties and render necessary accounts to this Court keeping the yield in his safe custody. The Petitioners carried a revision being O. L. R. Revision No. 28 of 1975 before the Additional District Magistrate challenging the order of appointment of receiver. The revisional authority had initially granted stay of operation of the direction, but by order dated 22-11-1975. recalled the order of stay dated 1-11-1975 and dismissed the revision holding that there was nothing else to be considered. Petitioners have carried the writ application against the aforesaid order.

2. Mr. Tripathy for the opposite parties with whom temporary settlement has been made of portions of land in dispute, fairly concedes that the appellate authority had no power to appoint a receiver in the facts and circumstances of the case, but contends that the receiver having been appointed for only one year and the period of receivership being over, there is no justification for examining the merits of the matter and giving any further directions. Learned Additional Government Advocate on the other hand contends that there is no provision for an application u/s 21 of the Act and the matter is indeed one u/s 15 thereof and, therefore, the power to appoint a receiver could be exercised u/s 15 of the Act. We are not impressed with the argument of the learned Additional Government Advocate. Section 21 of the Act authorises assessment of additional rent for the area which comes into existence by way of accretion and the same has to be determined by the Revenue Officer. The raiyatis, therefore, entitled to approach the Revenue Officer for determining additional rent. For that purpose an application could be made. The application made by the Petitioners before the Tahsildar is indeed one of that type. When such an application is made, it is not a dispute between landlord and tenant and, therefore, the provisions of Section 15 of the Act are not applicable.

3. We are inclined, however, to agree with Mr. Tripathy that the appointment of the receiver being essentially one for the standing crop of 1975, there is no justification for interfering at this stage when about three years have intervened since that order was made. The appeal is admittedly pending and, therefore, it would be proper to direct the Sub-Divisional Officer to dispose of the appeal within two months from the date of receipt of our order. Until the appeal is disposed of the status quo as existing today by virtue of interim orders made by this Court in the present proceeding shall continue. If there be necessity to maintain the peace by avoiding breach thereof, it shall be open to the authorities in charge of maintenance of law and order to take such action as law permits and our direction will not stand in their way.

4. The writ application is disposed of with the aforesaid directions and there will be no order for costs.

P.K. Mohanti, J. I agree.

5. Ordered accordingly.