

(2022) 11 OHC CK 0155

In the Orissa High Court

Case No : Writ Petition (C) No. 10971 Of 2019

Sri Satyabadi Gopinath Dev Bijee Phula Alasa

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 18-11-2022

Acts Referred:

Orissa Hindu Religious Endowments Act, 1951 — Section 19, 25

Citation : (2022) 11 OHC CK 0155

Hon'ble Judges : Arindam Sinha, J; Gourishankar Satapathy, J

Bench : Division Bench

Advocate : B. Pr. Mohanty, A. K. Sharma, A. K. Nath, H. K. Dash

Final Decision : Disposed Of

Judgement

1. Mr. Mohanty, learned advocate appears on behalf of petitioner-deity. He draws attention to annexure-1 being communication dated 23rd September, 2017 made by Revenue Divisional Commissioner to Collector, Puri with copies forwarded to Secretary, Board of Revenue, Odisha and Executive Officer of the temple. Essentially the communication is that veracity of Orissa Endowments Act order permitting sale of deity's land to predecessors-in-interest of private opposite party nos.6 to 10. He submits, land to be retained by the deity under Orissa Estates Abolition Act and recorded in consolidated RoR, finalized in year 1983 in respect of Hal Plot no.1120 Ac.093 dec. of Hal Khata no.405 relating to village Utarasasan, in favour of the deity under Bebandobasta status. Subsequently, the land was recorded in favour of different private individuals on basis of OEA Case no.313 of 1991, record of which is not available.

2. In spite of above communication nothing was done by the Collector.

3. Drawing attention to page 5 of impugned order he submits, purported alienation of the deity's land was made under cover of order dated 15th February, 1984 in O.A. Case no.152 of 1981, made under section 19 in Orissa Hindu Religious Endowments Act, 1951. Said order related to other properties in

remote areas. The land alienated is in Bhubaneswar and there was no permission granted under section 19. In the circumstances, the section 25 application could not have been rejected.

4. Mr. Dash, learned advocate appears on behalf of private opposite party no.9 and submits, alternative, efficacious statutory remedy is available to petitioner. As such, the writ petition is not maintainable. He adds, his client's predecessor-in-interest obtained conveyance of the land under sanction by order dated 15th February, 1984 under section 19. In the circumstances, there should be no interference with impugned order.

5. Mr. Sharma, learned advocate, Additional Government Advocate appears on behalf of State and adopts submissions made by Mr. Dash. Mr. Nath, learned advocate appears on behalf of Endowment Commissioner.

6. So far as private opposite parties are concerned, there have been good service on them except opposite party no.8. The AD card has not come back. We direct petitioner to file requisites for issuance of notice along with this order on opposite party no.8, by registered/speed post with AD. In the meantime appearing opposite parties may file counter by 2nd December, 2022. Petitioner may file rejoinder, to be accepted on adjourned date upon advance copies served to respective learned advocates.

7. List on 9th November, 2022.

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