
(2023) 02 OHC CK 0063
In the Orissa High Court
Case No : Writ Petition (C) No. 20916 Of 2016

Tusar Kant Mishra

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 08-02-2023

Acts Referred:

Orissa Land Reforms Act, 1960 — Section 7A, 22

Citation : (2023) 02 OHC CK 0063

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. Said allottee got allotment on belonging to a Scheduled Tribe. It is undisputed that the allottee, after obtaining permission under section 22 of Orissa Land Reforms Act, 1960 had sold it away to petitioner. The authority had initiated Lease Revision Case no.106 of 1998 in respect of the lease. Original allottee not having responded to the notice, the case was dealt with resulting in cancellation of the lease. On coming to know, petitioner moved this Court by WP(C) no.6145 of 2007, disposed of by order dated 26th November, 2010. There was direction for the authority to go into the matter. There was also direction for petitioner to appear before the authority, for the latter to fix a date for filing petitioner's show-cause and thereafter proceed with the case and dispose of it in terms of decision in Gopaldas Agrawal v. State of Orissa, reported in 2005(II) OLR 475.

2. Mr. Panda, learned advocate appears on behalf of petitioner and submits, initiation of the lease case was barred by limitation. It is only in year, 2013 that there was amendment deleting the provision. The authority relied upon the amendment to justify the cancellation order. It could not be so done. In any

event no reasons were given. He seeks interference and appropriate direction for recording his client's name against the land.

3. Mr. Rout, learned advocate, Additional Standing Counsel appears on behalf of State. He submits, by the 2013 amendment the bar of limitation was removed. As such, there was no illegality committed by the authority in treating the case to have application of the amended provision in section 7A, of Orissa Land Reforms Act, 1960.

4. We notice that by said order dated 26th November, 2010 the matter was remitted back to the Additional District Magistrate for fresh disposal. That is permissible procedure in civil cases, for remand. It does not make the case a fresh case. Such is amply demonstrated by impugned order stating registration and number of the case as Lease Revision Case no.106 of 1998. Amendment to a provision in the Act, deleting a provision therein cannot be said to be retrospective in operation.

5. It is not necessary to go into any other aspect regarding challenge to impugned order. The lease revision case was initiated beyond the period of limitation, as on existing provision at the time it was initiated. Nothing further need be looked at.

6. Impugned order is set aside and quashed. Concerned authority is directed to cause mutation in the record in respect of the land held by petitioner.

7. The writ petition is allowed and disposed of.

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