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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.1608 of 2014 and batch

In W.P.(C) No.1608 of 2014

Narottam Rath **Petitioner**

Mr. Gautam Misra, Senior Advocate

-versus-

State of Odisha and another **Opposite Parties**

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.2798 of 2014

Sri Subash Chandra Samantaray (since dead) represented by his LRs Sri Alok Kumar Samantaray and others **Petitioners**

Mr. Sanjay Kumar Samantaray, Advocate

-versus-

State of Odisha and others **Opposite Parties**

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.2799 of 2014

Sri Alok Kumar Samantaray **Petitioner**

Mr. Sanjay Kumar Samantaray, Advocate

-versus-

State of Odisha and others **Opposite Parties**

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.2800 of 2014

Saroj Kumar Jena **Petitioner**

Mr. Sanjay Kumar Samantaray, Advocate

-versus-

State of Odisha and others **Opposite Parties**

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.2801 of 2014

Sri Deepak Kumar Samantaray **Petitioner**

Mr. Sanjay Kumar Samantaray, Advocate

-versus-

State of Odisha and others **Opposite Parties**

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.2802 of 2014

Sri Subash Chandra Samantaray (since dead) represented by his LRs Sri Alok Kumar Samantaray and others **Petitioners**

Mr. Sanjay Kumar Samantaray, Advocate

-versus-

State of Odisha and others **Opposite Parties**

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.5876 of 2014

Ranjit Kumar Mohanty **Petitioner**

Mr. Gautam Misra, Senior Advocate

-versus-

State of Odisha and another **Opposite Parties**

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.8637 of 2014

Sarangadhara Tripathy **Petitioner**

M/s. S.P. Mishra, Advocate and associates

-versus-

State of Odisha and others **Opposite Parties**

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.8829 of 2014

Ujjal Sahoo **Petitioner**

M/s. S.P. Mishra, Advocate and associates

-versus-

State of Odisha and others **Opposite Parties**

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.8830 of 2014

Durga Prasad Dash

Petitioner

M/s. S.P. Mishra, Advocate and associates

-versus-

State of Odisha and others

Opposite Parties

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.8831 of 2014

Kasturi Khadia

Petitioner

Mr. P.K. Nayak, Advocate

-versus-

State of Odisha and others

Opposite Parties

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.8832 of 2014

Madhusmita Behera

Petitioner

Mr. P.K. Nayak, Advocate

-versus-

State of Odisha and others

Opposite Parties

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.8834 of 2014

Jyotsna Swain

Petitioner

Mr. P.K. Nayak, Advocate

-versus-

State of Odisha and others

Opposite Parties

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.9081 of 2014

Smt. Tanulata Sahoo

Petitioner

Mr. Sanjay Kumar Samantaray, Advocate

-versus-

State of Odisha and others

Opposite Parties

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.9775 of 2014

Smt. Bharati Satpathy

....

Petitioner

Mr. Sanjay Kumar Samantaray, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.9776 of 2014

Chandra Sekhar Deo

....

Petitioner

Mr. Sanjay Kumar Samantaray, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.9777 of 2014

Simple Sujata Mishra

....

Petitioner

Mr. Sanjay Kumar Samantaray, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.9778 of 2014

Smt. Snehalata Das

....

Petitioner

Mr. Sanjay Kumar Samantaray, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.12842 of 2014

Noorjahan Begum

....

Petitioner

Mr. Sanjay Kumar Samantaray, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.13069 of 2014

Sri Rudra Mohan Pradhan **Petitioner**

Mr. Pradipta Kumar Mohanty, Senior Advocate

-versus-

State of Odisha and others **Opposite Parties**

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.13070 of 2014

Smt. Damayanti Sahoo **Petitioner**

Mr. Pradipta Kumar Mohanty, Senior Advocate

-versus-

State of Odisha and others **Opposite Parties**

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.14693 of 2014

Smt. Nandinee Bose and another **Petitioners**

Mr. Bramhananda Tripathy, Advocate

-versus-

State of Odisha and others **Opposite Parties**

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.16811 of 2014

Sri Rebatikanta Nanda **Petitioner**

Mr. Amit Prasad Bose, Advocate

-versus-

State of Odisha and others **Opposite Parties**

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.17744 of 2014

Sri Subhas Chandra Panda **Petitioner**

Mr. Kalyan Patnaik, Advocate

-versus-

State of Odisha and others **Opposite Parties**

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.17745 of 2014

Sri Ainthi Dal Behera

.... ***Petitioner***

Mr. Kalyan Patnaik, Advocate

-versus-

State of Odisha and others

.... ***Opposite Parties***

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.18625 of 2014

Niranjan Pradhan

.... ***Petitioner***

Mr. Maheswar Mohanty, Advocate

-versus-

State of Odisha and others

.... ***Opposite Parties***

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.18992 of 2014

Sri Sushant Kumar Jena

.... ***Petitioner***

Mr. Sanjay Kumar Samantaray, Advocate

-versus-

State of Odisha and others

.... ***Opposite Parties***

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.19006 of 2014

Smt. Sashirekha Samal

.... ***Petitioner***

Mr. Amit Prasad Bose, Advocate

-versus-

State of Odisha and others

.... ***Opposite Parties***

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.19076 of 2014

Sri Bibhuranjan Nayak

.... ***Petitioner***

Mr. Bimal Prasanna Tripathy, Advocate

-versus-

State of Odisha and others

.... ***Opposite Parties***

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.19077 of 2014

Sri Raturaj Das

.... **Petitioner**

Mr. Bimal Prasanna Tripathy, Advocate

-versus-

State of Odisha and others

.... **Opposite Parties**

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.18647 of 2014

Sri Hadibandhu Mahakud

.... **Petitioner**

Mr. Bimal Prasanna Tripathy, Advocate

-versus-

State of Odisha and others

.... **Opposite Parties**

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.19701 of 2014

Sri Anshuman Das

.... **Petitioner**

Mr. Bimal Prasanna Tripathy, Advocate

-versus-

State of Odisha and others

.... **Opposite Parties**

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.19078 of 2014

Sri Kedar Ranjan Pandu

.... **Petitioner**

Mr. Bimal Prasanna Tripathy, Advocate

-versus-

State of Odisha and others

.... **Opposite Parties**

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.19352 of 2014

Smt. Jayanti Panda

.... **Petitioner**

Mr. Kalyan Patnaik, Advocate

-versus-

State of Odisha and others

.... **Opposite Parties**

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.19353 of 2014

Sri Pravash Chandra Panda

....

Petitioner

Mr. Kalyan Patnaik, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.19354 of 2014

Subhas Chandra Panda

....

Petitioner

Mr. Kalyan Patnaik, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.19355 of 2014

Sri Manas Ranjan Panda

....

Petitioner

Mr. Kalyan Patnaik, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.19357 of 2014

Sri Rudramadhab Panda

....

Petitioner

Mr. Kalyan Patnaik, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.20217 of 2014

Safik Khan

....

Petitioner

Ms. Soumya Priyadarshinee, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. Debakanta Mohanty, A.G.A. for the State

In W.P.(C) No.22046 of 2014

Ghisuram Agrawalla

.... ***Petitioner***

Mr. P.K. Rath, Advocate

-versus-

State of Odisha and another

.... ***Opposite Parties***

Mr. Debakanta Mohanty, A.G.A. for the State

**CORAM:
THE CHIEF JUSTICE
JUSTICE M.S. RAMAN**

JUDGMENT

02.01.2023

1. A common question of law arises in all these writ petitions and they are accordingly disposed of by this common judgment.

2. For the Petitioners in the present writ petitions, it is not the first time that they are litigating before this Court. In some cases, there have been at least two earlier rounds of litigation. The present batch of writ petitions has several common features. In all of them, the Petitioners are questioning the powers of the Assistant Settlement Officer (ASO), an authority functioning under the Orissa Survey and Settlement Act, 1958 (OSS Act), to purportedly exercise *suo motu* powers at the stage of a preliminary publication of a draft record of rights (ROR) under Section 12 of OSS Act and to pass orders directing that the lands in question be recorded in the name of the Government in the ROR.

3. Another common feature of all these cases is that the lands in question are in Khurda District either in the city of Bhubaneswar or in its outskirts. The litigation has its genesis in an order passed by

the Division Bench of this Court on 29th January 1996 in OJC No.9449 of 1993 noting the allegations made about irregularities committed in the grant of leases of land in Bhubaneswar Tahsil area; and directing the State Government to scrutinize all irregular lease cases and thereafter take appropriate action. Those leases under the Orissa Government Land Settlement Act, 1962 (OGLS Act) were granted in favour of either the Petitioners themselves or their vendors and their predecessors-in-interest.

4. On the basis of the above general direction issued by this Court in OJC No.9449 of 1993, orders came be passed in purported exercise of *suo motu* powers by ASOs at the stage of examining the applications for mutation of the names of the purchasers in the RORs. Many of these purchasers had purchased the land in question through registered sale deeds (RSDs) and were asking for consequential entry of their names in the ROR on the basis of such RSDs.

5. Pursuant to the directions issued by this Court in OJC No. 9449 of 1993, action was sought to be taken under the OGLS Act to cancel the leases. At that stage, writ petitions were filed in this Court in which orders were passed remanding the matters to the Additional District Magistrate (ADM) to examine, after hearing the Petitioners, whether in fact leases hadbeen granted validly in their favour. The Court is informed that in some of these cases, on such remand, the ADM again passed orders affirming the grant of lease in favour of the Petitioners or their vendors or the predecessors-in-interest. The grievance is that even in such cases where the ADM had confirmed the grant of leases in favour of the predecessors-in-

interest of the Petitioners, the ASOs at the stage of examining the request for mutation in the ROR, again exercised purported *suo motu* power to decline such registration of ROR and issued positive directions that they should in fact be recorded in the name of the Government. This has triggered the present round of litigation.

6. This Court has been shown numerous orders passed by both the learned Single Judge of this Court as well as various Division Benches where in similar circumstances, it has been repeatedly held that the ASOs exercising powers under the OSS Act are bound by the orders passed by the ADM under the OGLS Act and cannot possibly override such orders.

7. Among the earliest of such orders is an order dated 20th August, 2013 passed by a Division Bench of this Court in W.P.(C) No.18936 of 2013 (*Mrs. Sneha Mohanty v. State of Odisha*) holding that the ASO “has no jurisdiction to review the order passed by the revisional authority in a proceeding under the OGLS Act regarding lease of Government land”.

8. Then there are a series of orders passed by the Division Benches of this Court in 2014 including an order dated 4th July 2014 in W.P. (C) No.8402 of 2014 (*Nilendri Mohanty v. State*); an order dated 4th July 2014 in W.P.(C) No.8237 of 2014 (*Kamal Basini Mohanty v. State of Orissa*); an order dated 8th July 2014 in W.P.(C) No.11165 of 2014 (*M/s. Kapaleswar Firms Pvt. Ltd. v. State of Odisha*); and an order dated 27th October 2014 in a batch of writ petitions, the lead case of which was W.P.(C) No.4596 of 2014

(*Tridev Kodamasingh v. State of Odisha*), where it was held as under:

“The leases having been granted either under the OGLS Act or under any other appropriate law, unless and until it is set aside or declared invalid by the competent authority under the appropriate statute the lease cannot be said to be invalid. Unless and until the lease is either set aside or leasehold lands are resumed by the order of the competent authority, the Assistant Settlement Officer/Settlement authorities are bound by the lease orders and have no jurisdiction to question the validity of the lease concerned. For the omission of the State Government to scrutinize and to find out any irregularities in respect of any lease, no fault can be imputed either to the lessees or to the petitioner, who have purchased by registered sale deeds portions of such leasehold lands. Since the Assistant Settlement Officer was in seisin of the matter, it was incumbent on him to make field enquiry to find out the actual possession of the petitioners and he having not done so it is not open to him to doubt about the possession of the petitioners over the lands which they claimed and on that ground direct recording of the land in favour of the State.”

सत्यमेव जयते

9. In many of the above cases, the matters were remanded to the ASO to again examine the matters and pass appropriate orders.

10. Then there are a series of orders that were passed by the Division Benches of this Court in 2018. In W.P.(C) No.12776 of 2014 (*Padmanav Prusty v. State of Odisha*), an order was passed by the Division Bench of this Court on 6th April 2018 where it was noticed that the ASO was “swayed away by the observation of this Court passed in OJC No.9449 of 1993, which is a general instruction to the State Government to find out the fraud, if at all committed in granting lease of the case. But never that order shows

any cancellation of lease without following the due procedure of law". It was then observed as under:

“10. ... It must be made clear that it was none of the business of the Assistant Settlement Officer to go into the question of correctness of lease and direct to change the draft record because the authority under the OGLS Act, lease principle or Government Grants Act under which there are hierarchy of authorities to take cognizance of any irregularity and illegality and then pass the order of cancellation under the concerned statute. The Assistant Settlement Officer is not authorized to encroach upon the authority as prescribed under other revenue laws to behave like appellate authority to cancel the lease. On the other hand, the impugned order passed by the Assistant Settlement Officer is without jurisdiction and wholly erroneous. Similarly, the Additional Sub-Collector, without mentioning the provision of law under which he heard the appeal, has dismissed the appeal and as such, the same is also without jurisdiction and illegal.

11. The propriety demands that the authority vested with the power under the statute must exercise the power as assigned under the Act and he cannot encroach the power of other authority purportedly assigned to that authority under the said Act. On the other hand, in the case of *Babu Verghese and others v. Bar Council of Kerala and others*; (1999) 3 SCC 422, Hon'ble Supreme Court, have observed at paragraphs 31 and 32 in the following manner:

“31. It is the basic principle of law long settled that if the manner of doing a particular act is prescribed under any Statute, the act must be done in that manner or not at all. The origin of this rule is traceable to the decision in *Taylor v. Taylor* (1875) 1 Ch.D 426 which was followed by Lord Roche in *Nazir Ahmad vs. King Emperor*; AIR 1936 PC 253 who stated as under :

"Where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all."

32. This rule has since been approved by this Court in *Rao Shiv Bahadur Singh & Anr. v. State of Vindhya Pradesh*; AIR 1954 SC 322 and again in *Deep Chand v. State of Rajasthan*; AIR 1961 SC 1527. These cases were considered by a Three-Judge Bench of this Court in *State of Uttar Pradesh v. Singhara Singh & Ors.* AIR 1964 SC 358 and the rule laid down in Nazir Ahmad's case (supra) was again upheld. This rule has since been applied to the exercise of jurisdiction by courts and has also been recognised as a salutary principle of administrative law.

12. The Constitution Bench of the Hon'ble Supreme Court in the case of *Captain Sube Singh and others v. Lt. Governor of Delhi and others*; AIR 2004 SC 3821 at paragraph-29 of the said judgment have observed that when a statute vests certain power in an authority to be exercised in a particular manner then the said authority has to exercise it only in the manner provided in the statute itself. Paragraph-29 of the said judgment is placed in the following manner for better appreciation:

29. In *Anjum M.H. Ghaswala* a Constitution Bench of this Court reaffirmed the general rule that when a statute vests certain power in an authority to be exercised in a particular manner then the said authority has to exercise it only in the manner provided in the statute itself. (See also in this connection *Dhanajaya Reddy v. State of Karnataka*; (2001) 4 SCC 9. The statute in question requires the authority to act in accordance with the rules for variation of the conditions attached to the permit. In our view, it is not permissible to the State Government to purport to alter these conditions by issuing a notification under Section 67(1)(d) read with sub-clause (i) thereof.

13. With due regard to the aforesaid decisions, it is made clear that if a statute vests certain power in an authority to be exercised in a particular manner, then said authority has to exercise only in that manner provided under the statute. A similar matter, i.e., **W.P.(C) No.2207 of 2015 (Rukmani Panigrahi v. State of Orissa)** has also been disposed by this Court on 13.07.2015 with the finding that the Assistant Settlement Officer cannot dispose of such matter while being only authorized to prepare the final record of right in accordance with the draft record of right (PARCHA). Relying upon the decisions of the Hon'ble Supreme Court and the judgment of this Court, the impugned order passed by the Assistant Settlement Officer, Bhubaneswar Settlement Camp, Rental Colony, Bhubaneswar in Objection Case No.16372/4306 of 2013 and the order dated 16.9.2013 passed by the Additional Sub-Collector, Bhubaneswar in Appeal Case No.1806 of 2013 are liable to be set aside and the Court do so.”

11. Having held as above, this Court remitted the matter to the ASO “to finally record the disputed land in favour of the Petitioner in accordance with draft record of right (PARCHA) under the OSS Act within a period of three months”.

12. Then we have an order dated 10th May, 2018 in W.P.(C) No. 18357 of 2014 where again it was held likewise and a direction was issued remitting the matter to ASO to finally record the disputed land in favour of the Petitioner. The learned Single Judge of this Court in a detailed judgment dated 18th June 2021 in W.P.(C) No.8774 of 2019 and batch (*Vijay Krishna Poultry Pvt. Ltd. v. State of Odisha*) dealt with a similar issue and held that the settlement authorities had acted without jurisdiction in passing the orders under the OSS Act overriding the orders passed by the

ADM under the OGLS Act. In para-30 of the said order, it was observed as under:

“30. Nevertheless, the writ Court under Article 226 of the Constitution can interfere with an order passed by the statutory authority when it acts in a manner not recognized under law. In all these writ petitions, the properties in question were settled under the provisions of the O.G.L.S. Act. The settlement authority also accepted the same and proceeded in the settlement operation up to the stage of Section 11 of the Act, 1958. But, surprisingly the authority under the Act has acted in a different manner and passed the impugned orders without recognizing the settlement of the land under the provisions of the O.G.L.S. Act. Law is well settled that the authorities under the Act cannot sit over the settlement made under the O.G.L.S. Act. There is ample provision under the O.G.L.S. Act to cancel the lease granted in favour of beneficiary and in fact, the said settlements had undergone the test of its validity. It appears from the impugned orders that the Assistant Settlement Officer/Addl. Sub-Collector conveniently avoided the settlement made under the O.G.L.S. Act by ignoring the same, which is not permissible under law. The impugned orders have, in effect, resulted in cancelling the lease granted in favour of beneficiary, which is not within the domain of the settlement authorities. My view gets support from the case of *Lily Nanda v. State of Odisha reported in 2018 (I) OLR 559*. As such, the impugned orders are without jurisdiction and the same are void. The action taken or publication made pursuant to the said void orders are also equally ineffective and *no nest* in the eyes of law. Thus, final publication of the R.O.Rs. under Section 12-B of the Act, 1958 pursuant to the void orders is not sustainable in the eyes of law.”

13. The learned Single Judge in the above judgment went so far as to say that even if such order of the ASO under the OSS Act had resulted in a final publication of the ROR under Section 12- B of

the OSS Act that would not be sustainable in the eye of law. Consequently, even the RORs published pursuant to the final list were set aside. The matters were remitted to the authorities under the OSS Act for a fresh a adjudication in accordance with law after giving an opportunity of hearing to the parties concerned.

14. At one stage of the arguments in the present cases, a question arose whether in many of these cases there had been a final publication of the list as envisaged in Rule 29 of the Orissa Survey and Settlement Rules, 1962 (OSS Rules)? That was because in terms of Section 13 of the OSS Act, the final publication of the list lends a presumption of correctness to every entry made on the ROR and the remedy for a person aggrieved by such entry in the final list published under Section 13 of the OSS Act is to prefer a revision petition under Section 15(b) of the OSS Act before the Board of Revenue. Where there is no such final publication of list, and an order has been passed by an ASO at the stage of publication of the draft ROR under Section 12 of the OSS Act, the remedy lies by way of an appeal under Section 12-A of the OSS Act.

15. In some of the cases before us, such appeals were in fact filed and rejected by the Appellate Authority under Section 12-A of the OSS Act perhaps on the ground that in the meanwhile a final list had been published. However, the position is not very clear from the pleadings in these writ petitions. Therefore, two scenarios can possibly emerge i.e., one where there has been a final publication of the ROR in terms of Section 13 of the OSS Act read with Rule 29 of the OSS Rules and another where there has been no such final publication of the ROR. Nevertheless in both scenarios, a

common feature, as already noticed, in all these writ petitions is that ASOs have passed orders declining the request of the Petitioners for recording their names in the ROR in respect of the land in question. It must be noted at this stage that in all these writ petitions while issuing notice, this Court had directed status quo to be maintained and that interim order has continued. In most of these writ petitions, no counter affidavits have been filed despite the petitions having been pending over 8 years now.

16. Be that as it may, it is plain that in all these cases, the ASOs exercised '*suo motu* powers' to override the orders of the ADM under the OGLS Act in favour of the predecessors-in-interest of the Petitioners or refused to record their names in the ROR despite there being no objections to the draft publication of the ROR.

17. Clearly the ASOs were acting without jurisdiction and beyond the scope of their powers under the OSS Act. It is obvious that powers which could have been exercised only under the OGLS Act were sought to be exercised by the ASO which was impermissible in law for them to do. The above extracted portions of the orders of this Court conclusively settle the legal position in this regard and do not bear repetition.

18. The question that next arises is what should be the consequential orders passed by this Court consequent upon the setting aside of all such orders of the ASOs and the Appellate Authorities under the OSS Act, which are without jurisdiction. One course of action, as has been done in some of the cases, is to remand the matters to the ASO for a fresh decision by following

the law and the correct legal procedure. However, that course does not commend itself to this Court for the simple reason that there have been at least two rounds of litigations already involving these very Petitioners and their lands in question. Remanding the matters would only multiply litigation when the legal position is already clear. If the Government seeks to recover land which it believes belongs to the Government, then there are enough provisions under the OGLS Act to take care of such contingencies. For instance Section 3-B of the OGLS Act provides for resumption of land and imposition of penalty. The Rules made under the OGLS Act set out the detailed procedure for exercise of such powers. In other words, the Government is not powerless or remediless in such a contingency. There is no need for an ASO exercising limited powers under the OSS Act to take up on himself or herself the task of seeking to recover Government land when there are no such powers vested in the ASO under the OSS Act.

19. In that view of the matter, the following directions are issued in all these writ petitions:

(i) The impugned orders of the ASOs declining to accept the request of the Petitioners for recording of their names in the ROR in respect of the lands in question on the ground that the land belongs to the Government, are hereby set aside;

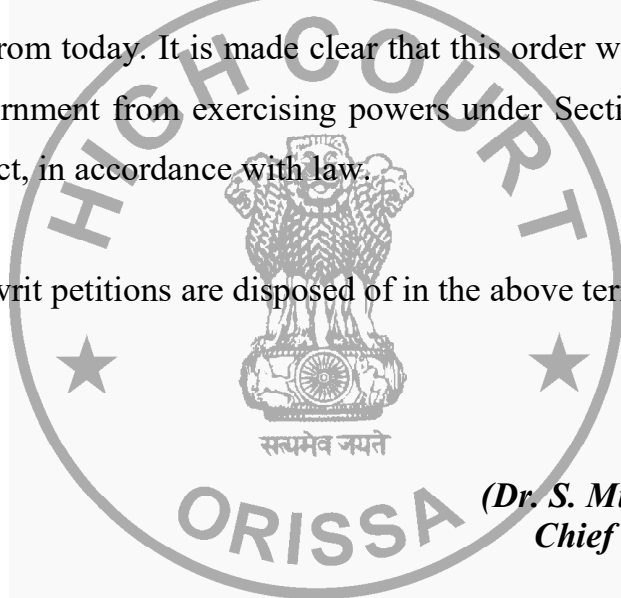
(ii) The corresponding orders by the Appellate Authorities affirming such orders of the ASOs are also hereby set aside;

(iii) A direction is issued to the ASOs to now proceed to record the names of the respective Petitioners concerning the land in question in their names in the ROR, in accordance with law within a period of eight weeks.

(iv) Where the land in question stands recorded in the final published RoR in the name of the Government that entry will stand cancelled by virtue of this order and the ASO will proceed to record it in favour of the respective Petitioners.

20. The above directions will be carried out within a period of four months from today. It is made clear that this order will not prevent the Government from exercising powers under Section 3-B of the OGLS Act, in accordance with law.

21. The writ petitions are disposed of in the above terms.



(Dr. S. Muralidhar)
Chief Justice

(M.S. Raman)
Judge

S.K. Guin/P.A.