



IN THE HIGH COURT OF ORISSA AT CUTTACK

R.S.A. No.347 of 2017

*Ashok Kumar Satpathy and
others*

.....

Appellants

Represented by
Mr.S.P.Mishra,
Sr. Advocate

-versus-

*Bijendra Mohapatra and
others*

.....

Respondents

Represented by
Mr. B. Bhuyan, Advocate

CORAM:

THE HON'BLE MR. JUSTICE SASHIKANTA MISHRA

ORDER
07.1.2025.

Order No.

19.

1. This matter is taken up through hybrid mode.

2. Heard Mr. S.P.Mishra, learned Senior counsel along with Mr. Ramesh Agrawal, learned counsel, for the appellants on the question of admission. Perused the judgments passed by the lower appellate court as well as the trial court.

3. Considering the submissions and the grounds raised, the RSA is admitted on the following substantial questions of law;



(i) Whether in view of the concurrent finding of fact of both the Courts below that the predecessors of defendants No.1 to 6, the recorded tenants had executed the sale deed (Ext. 13) in favour of the then Raja of Athagarh in the year 1887 on 3.4.1987 and Raja had executed the sale deed (Ext.14) in favour of the predecessors of the plaintiffs in respect of the suit schedule 'A' property on 16.01.1958 as admitted by defendant No.4 and husband of Defendant No.5 in Plaint in T.S. No.36/64 (Ext.16) and Radhanath Bebartta Pattnaik, Vendor of the plaintiffs in W.S. in T.S. No.36/64 (Ext. 18), the lower appellate is correct in holding that the plaintiffs have acquired no right, title and interest over the suit schedule property relying on the wrong and illegal entry in the R.O.R. which does not create or extinguish any body's title ?

(ii) Whether the lower appellate is correct in holding that the predecessors of Defendant No.1 to 6 were raiyats and the predecessor of defendant No.7 were under raiyats in respect of the land in question relying on the wrong and illegal entries in the R.O.R. particularly when there is ample evidence on record to show that the predecessors of Defendants No.1 to 6 were tenure holder in



respect of the suit property along with other properties holding more than 33 acres and Raja had acquired the suit property for cultivation and thus, Raja was not an under raiyat but was a raiyat and Raja being in continuous possession of the suit land since 1887 till publication of R.O.R. of the year 1912 had become a settled raiyat of the village and having remained as such for more than 12 years he had acquired occupancy right over the property in question which is heritable and transferable?

(iii) Whether the finding of the lower appellate Court that since Raja of Athagarh had no permanent Sikim tenancy in respect of the suit property and he was simply an under raiyat of the ancestors of defendants No.1 to 6 who were stitiban raiyats and alienation of the suit property by Radhanath Bebartta Pattnaik, the grandson of Raja vide Ext. 14 and the compromise decree (Ext. 11) passed in F.A. No.50/60 do not confer title upon the plaintiffs relying on the wrong entries in R.O.Rs is sustainable when there is ample evidence on record to prove otherwise that the Raja on the strength of Ext.13 acquired raiyati right over the property which was heritable and transferable and subsequently on the strength of



his valid transfer under Ext. 14 the plaintiffs had acquired title over the property in question?

4. No notice need be issued to the Respondents as they have already appeared through counsel. Adequate number of appeal memo copies be served upon learned counsel appearing for the other side.

5. L.C.R. be called for.

6. List this matter in the week commencing 10.2.2025 on the heading 'Admission'.

AKB

(Sashikanta Mishra)
Judge

I.A. No.427 of 2020

20. 1. Status quo as on date with regard to the suit property shall be maintained till the next date.

(Sashikanta Mishra)
Judge