



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.27735 of 2024

Gouri Bala Beura

....

Petitioner

Mr. R. K. Rout, Advocate

-versus-

**State of Odisha and
others**

....

Opposite Parties

Mr. G. Mohanty, AGA

CORAM:

THE HON'BLE MR. JUSTICE S.K. SAHOO

THE HON'BLE MR. JUSTICE S. S. MISHRA

ORDER

29.04.2025

Order No.

03. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard Mr. Rout, learned counsel for the petitioner and Mr. Mohanty, learned Additional Government Advocate for the State.

The petitioner has filed this writ petition with the following prayer:-

"The petitioner, therefore, prays that this Hon'ble Court may graciously be pleased to admit the writ petition and issue Rule NISI calling upon the Opp. Party No.- 1 to show cause as to why the order Annexure-4 shall not be quashed and why a direction shall not be given to the Opp. Party No. -2 to record the Hal ROR under Annexure-5 in favour of the petitioner on the basis of the lease granted in favour of the leasee under OGLS



Act and if the Opp. Party No.-1 to 4 fail to show cause or shows insufficient cause then the said rule be made absolute by quashing Annexure-4 with a further direction to the Opp. Party No.- 2 to record the Hal ROR in Annexure-5 within the time stipulated by this Hon'ble Court or may pass such other orders as this Hon'ble court may think just proper.

And for this act of kindness, the petitioner shall as in duty bound every pray."

In the impugned order dated 17.04.2013 vide Annexure-4, the Assistant Settlement Officer, Settlement Camp, Patharagadia, Bhubaneswar, opposite party No.4 in Objection Case No.13748/2576 of 2013 has held that on examination of record it was found that the suit property has been recorded in Government khata and the petitioner has not produced the relevant papers justifying the transfer of the suit land in her favour. Hence, the case was considered and disposed of.

The final RoR and maps in respect of Mouza-Pathargadia have already been made and as per statute, the Assistant Settlement Officer is "functus officio" after final publication of RoRs and that maps and records are with Tahasildar, Bhubaneswar.

Final publication of record-of-rights is made by the Asst. Settlement Officer under section 12-B of the Odisha Survey & Settlement Act, 1958 (hereafter, "1958 Act"). Such publication shall be the conclusive evidence that the record has been duly made under Chapter-III of 1958



Act.

Section 15 (a) of 1958 Act empowers the Board of Revenue to direct on its own motion the revision of any record-of-rights, or any portion of a record-of-rights, at any time after the date of final publication under section 12-B of the 1958 Act. Similarly, in view of section 15(b), an application being made within one year from the date of final publication under section 12-B, the Board of Revenue can direct the revision of record-of-rights or any portion thereof within the said period of one year or thereafter and in any of the cases, either under section 15(a) or 15(b) of 1958 Act, the direction can be given only after affording reasonable opportunity to the parties concerned to appear and be heard in the matter.

Similarly, in case of settlement of rent as per Chapter-IV of 1958 Act after incorporation of settled rent in the record-of-rights and final publication thereof is made by the Asst. Settlement Officer under section 23 of 1958 Act, the Board of Revenue by invoking its power of revision under section 25 of the said Act either of its own motion or on an application made within one year from the date of final publication can direct the revision of the rent so settled after providing reasonable opportunity to the parties concerned to appear and heard in the matter.

It is pertinent to note that in the case of **Narottam Rath -Vrs.- State of Odisha and another** in W.P.(C)



No.1608 of 2014 and batch of cases, the Division Bench of this Court has made the following directions:-

- “(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.”

The State of Odisha challenged such orders before the Hon’ble Supreme Court and in the case of ***State of Odisha & Ors. -Vrs.- Deepak Kumar Samantaray in Special Leave to Appeal (C) No.26551 of 2023*** with a batch of cases vide order dated 17.12.2024, the Hon’ble Supreme Court has held that in case the power exercised by the ASO under the provisions of section 12



of the 1958 Act prior to the finalization of the record of rights or at a subsequent stage, the High Court has to consider whether the aggrieved party has exhausted the remedies as provided under section 12-A and/or section 15(b) of the 1958 Act and therefore, all such matters were remitted to this Court for consideration afresh which is to be decided separately.

In view of order passed by the Hon'ble Supreme Court, since against the impugned order, the petitioner has got alternative remedy, after arguing for some time, Mr. Rout, learned counsel for the petitioner seeks permission to withdraw the writ petition to avail such remedy in accordance with law.

Accordingly, the writ petition stands disposed of as withdrawn.

(S.K. Sahoo)
Judge

(S. S. Mishra)
Judge

Swarna/Ashok

Signature Not Verified

Digitally Signed
Signed by: ASHOK KUMAR JAGADEB MOHAPATRA
Designation: Secretary
Reason: Authentication
Location: High Court of Orissa
Date: 30-Apr-2025 16:17:30

