



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.1683 of 2022

Alme Bidika & others *Appellants*

-Versus-

Suru Anuradha & others *Respondents*

Advocates appeared:

For Appellants : Mr. Anam Charan Panda, Advocate

For Respondent No.1 : Mr. S.S. Rao, Sr. Advocate

For Respondent Nos.2 to 4: Mr. Siba Narayan Biswal, ASC

For Respondent No.5 to 8 : Mr. Nihar Ranjan Mohanty, Advocate

CORAM :

MR. JUSTICE K.R. MOHAPATRA

& MR. JUSTICE SANJAY KUMAR MISHRA

Heard and disposed of on 23.03.2026

JUDGMENT

By the Bench;

1. This matter is taken up through hybrid mode.
2. The Appellants in the present Writ Appeal are the legal heirs of Opposite Party Nos.2 & 3 in WP(C) No.8612 of 2003. The Appellants assail the order dated 15th September,



2022 passed in the said WP(C) No.8612 of 2003 in this Intra-Court Appeal.

3. Mr. Panda, learned Counsel for the Appellants submits that the Respondent No.1 herein purchased the immovable property in question from the predecessors of the Appellants and Respondent Nos.5 to 8. She purchased the property obtaining permission from the Competent Authority under Odisha Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Regulations, 1956 (for brevity "Regulation 2 of 1956). The said permission granted in favour of Respondent No.1 was subsequently reviewed by the Competent Authority, namely the Officer-on-Special Duty (LR), Rayagada, (Respondent No.4 herein) and the permission so granted was cancelled.

3.1. Being aggrieved, Respondent No.1 preferred WP(C) No.8612 of 2003 impleading the predecessors of the Appellants and Respondent Nos.5 to 8 as Opposite Party Nos.1 to 3.

4. During pendency of the Writ Petition, the said Opposite Party Nos. 1 to 3 died. Steps for substitution were taken by the Respondent No.1 (Petitioner therein) in respect of deceased Opposite Party Nos.1 to 3 therein. Vide order dated 4th July, 2022, the Writ Court also directed to take steps on the proposed legal heirs of Opposite Party Nos.1 to 3. But, without disposing of the petition for substitution, the Writ Petition was taken up for consideration and vide order dated



15th September, 2022, the Writ Petition was disposed of by virtue of the order impugned herein.

5. It is further submitted by Mr. Panda, learned Counsel for the Appellants that the order dated 15th September, 2022 passed in the Writ Petition was a nullity, as it was passed against dead persons. The legal heirs of the Opposite Party Nos.1 to 3 in the Writ Petition were not substituted. As such, the impugned order, being a nullity is liable to be set aside and the Writ Petition should be heard afresh providing opportunity of hearing to the Appellants and Respondent Nos.5 to 8.

6. Mr. Rao, learned Senior Advocate appearing for Respondent No.1 submits that though petitions for substitution of Opposite Party Nos.1 to 3 were filed by the Respondent No.1 (Petitioner therein), but before final order could be passed in those applications, the Writ Petition was disposed of.

6.1. However, there is no illegality in the order dated 15th September, 2022. He submits that the order cancelling the permission for alienation of the land in question in favour of the Respondent No.1 was in question before the Writ Court. It is his submission that hearing of the Writ Petition afresh would be an empty formality as the order impugned herein warrants no interference on merit. In the process of fresh hearing of the Writ Petition, the Respondent No.1 will suffer as she had purchased the property with valid permission from



the Competent Authority under Regulation 2 of 1956. It is his submission that initiation of the review proceeding itself was without jurisdiction. Hence, hearing of the Writ Petition afresh would yield no benefit to the Appellants. He, therefore, prays for dismissal of the Writ Appeal.

7. Taking note of the submissions made by the learned counsel for the parties, this Court finds that during pendency of the Writ Petition, the predecessors of the Appellants and Respondent Nos.5 to 8, namely, Opposite Party Nos.1 to 3 therein died. It further appears that steps for substitution were taken in respect of the said deceased Opposite Party Nos.1 to 3. But, before any final order could be passed in those substitution petitions, the Writ Petition was disposed of finally on 15th September, 2022. 7.1. Office note No.7 in W.P.(C) No.8612 of 2003 dated 04.07.2022 indicates that PLRs. of Opposite Party Nos.1(a), 2(a) and 3(a) appeared through their learned Counsel and A.D. of substitution notice returned after valid service from Opposite Party No.2(e) in the Writ Petition. But, the same is not sufficient notice to all the legal heirs of Opposite Party Nos.1 to 3 in the Writ Petition.

8. In view of the above, the order impugned herein was evidently passed against dead persons. Hence, the same is a nullity.

9. Testing the veracity of the order cancelling the permission granted in favour of the Respondent No.1 in the



present Appeal may be prejudicial to either of the parties. Further, in that process, either of the parties to the Writ Appeal would lose a forum.

10. In the facts and circumstances of the case, we are of the considered opinion that the Writ Petition i.e. W.P.(C) No.8612 of 2003 should be heard afresh providing opportunity of hearing to the parties concerned. Accordingly, order dated 15th September, 2022 passed in W.P.(C) No.8612 of 2003 is set aside and W.P.(C) No.8612 of 2003 is restored to file.

11. Registry shall take steps to list the matter before the assigned Bench for hearing of the Writ Petition on merit providing opportunity of hearing to the parties concerned including the legal heirs of Opposite Party Nos.1 to 3 therein.

12. With Appeal is allowed to the aforesaid extent. In the facts and circumstances, there shall be no order as to costs.

(K.R. Mohapatra)
Judge

(S.K. Mishra)
Judge

*Orissa High Court, Cuttack,
Dated 23rd March, 2026/Prasant*