

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No.6652/2010

STATE OF ORISSA & ANR.

Appellant(s)

VERSUS

SUDHIR KUMAR NAIK(DEAD THROUGH LRS.) & ANR.

Respondent(s)

O R D E R

1. The present appeal arises out of the impugned judgment dated 08.05.2009, passed by the High Court of Orissa in W.P. (C) No. 11886 of 2006 wherein the High Court disposed of the Writ preferred by the respondent no.1 challenging the cancellation of lease deed by the appellant-State. While disposing of the writ, the Court directed the appellant-State to intimate the respondent no.1 about any pending payments and in case no further amount was to be paid, a clearance certificate had to be issued in favor of the respondent.
2. The facts necessary for the disposal of the appeal are as follows. Vide order dated 28.02.2000, the appellant no.2 passed an order allotting the property in favor of the respondent no.1. Pursuant to the same, a lease deed was executed in favor of respondent no.1. As per the stipulation in the lease deed, respondent no.1 was required to pay the total premium of Rs.6,19,835/- in eight installments. The lease deed also clearly stipulated that the said land cannot be used for any other purpose other than for running a hotel.

3. However, the respondent no.1 only completed the payment of three installments. Further, he also preferred an application seeking to change the purpose of lease from running a hotel to that of running a shopping mall.
4. Pursuant to the same, on 24.02.2006, a show-cause notice was issued against respondent no.1 as to why the lease should not be cancelled. The respondent no.1, in response, sought further time in paying the arrears and also sought permission for changing the purpose of usage of lease. On 05.07.2006, the appellant no.2 cancelled the lease in favor of the respondent no. 1. Hence, the respondent no.1 preferred the writ, challenging the cancellation of the lease. *Vide* order dated 08.05.2009, the High Court disposed of the impugned judgment with the above-mentioned directions.
5. The counsel on behalf of the appellants argued that the High Court permitted respondent no.1 to benefit from his own non-compliance with the lease deed. On the contrary, the counsel on behalf of respondent no. 1 submitted that the appellants have permitted similarly situated persons to change the purpose of their lease and moreover, during the pendency of the litigation before the High Court, the respondent no.1 cleared all the arrears.
6. Heard counsel from both sides. Considering the fact that the dispute has been ongoing for the past 14 years, and that the original lessee has passed away without being able to enjoy the benefit of the aforesaid transaction and now the legal heirs are

continuing with the litigation over the same, we are of the opinion that we need to pass certain directions to give a quietus to this dispute.

7. Taking into considerations the aforesaid factors, without going into the merits of the cancellation notice, we direct the appellant-State to return respondent no.1 the payments made by him in pursuance of the aforesaid lease deed, along with an interest of 8% p.a. from the date of deposit made by the respondent no. 1 over the same.
8. The civil appeal is disposed of in the aforesaid terms with no order as to costs.

.....J
(N.V. RAMANA)

.....J
(SANJIV KHANNA)

.....J
(KRISHNA MURARI)

NEW DELHI;
26TH FEBRUARY, 2020.

ITEM NO.104/1

COURT NO.2

SECTION XI-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

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Date : 26-02-2020 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE KRISHNA MURARI

For Appellant(s)

Mr. Neeraj Kumar Jain, Sr. Adv.
Mr. Milind Kumar, AOR

For Respondent(s)

Mr. Ashok Panigrahi, AOR
Mr. Anmol Tayal, Adv.
Mr. S. Vinay Ratnakar, Adv.
Mr. Nabab Singh, Adv.

Mr. Sibbo Sankar Mishra, AOR
Mr. Niranjana Sahu, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The Civil Appeal is disposed of in terms of the signed order.

(VISHAL ANAND)
COURT MASTER (SH)

(RAJ RANI NEGI)
ASSISTANT REGISTRAR

(Signed Order is placed on the file)

