

ORISSA HIGH COURT : C U T T A C K

W.P.(C) No.20072 of 2022

*An application under Article 226 & 227 of
the Constitution of India, 1950*

Anugraha Narayan Pattnaik

: Petitioner

-Versus-

State of Odisha&Ors.

: Opposite Parties

For Petitioner

: M/s. A. Mohanty
G.M. Rath,
A.S. Mohanty,
L. Pradhan

For Opposite Party Nos.1 to 3

: Mr. S.P. Panda,
Addl. Govt. Adv.

JUDGMENT

**CORAM :
JUSTICE BISWANATH RATH**

Date of hearing & judgment : 07.09.2022

1. For the involvement of simple question; as to whether the Tahasildar is right in exercising the power of correction of the record of rights in deviation of the direction of the revisional authority? This Court undertakes the hearing exercise on consent of both the parties.
2. Considering the rival contentions of the parties this Court finds, in disposal of the proceeding vide R.C. Case No.129 of 2017 U/s.37(I) of the O.C.H. & P.F.L. Act, 1972, the revisional authority after providing

opportunity of hearing to the State Authorities as well as the private parties involved therein, came to direct as follows:

“Tahasildar Balipatna is directed to verify all the documents and record the suit land in favour of petitioner and Opp. Parties from 02 to 19 by creating a separate khata and delete the note of possession from Hal plot No.154 and 155 in Hal khata no.542 as per circular No. XLII-65/87, 8089/LRS Dt: 13-07-1987 issued by Board of Revenue, Odisha Cuttack Following Due process of Law.”

3. It is from the impugned order at Annexure-4 this Court finds, the Tahasildar in his limited jurisdiction took a decision differing from the direction of the competent authority U/s.37(I) of the O.C.H. & P.F.L. Act, which is not permissible in the eye of law. For the opinion of this Court so long as the order of the competent authority U/s.37(1) of the O.C.H. & P.F.L. Act, 1972 remains intact, the Tahasildar being the subordinate authority is bound by the same. This Court finds, the Tahasildar in disposal of the proceeding has exceeded his jurisdiction and even acted contrary to the direction of the superior authority. In the process this Court interfering with the order at Annexure-4, sets aside the same and remits the matter to the Tahasildar for having re-exercise involving the request of the Petitioner, strictly in terms of the direction of the revisional authority vide Annexure-3. For there is requirement of urgent action by the Tahasildar, this Court grants the Tahasildar concerned one month time for completing such exercise.

4. The writ petition succeeds. There is, however, no order as to the costs.

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(Biswanath Rath)
Judge

Orissa High Court, Cuttack.
The 07th day of September 2022//
Ayaskanta Jena,
Senior Stenographer