

HIGH COURT OF ORISSA: CUTTACK.

W.A No.396 of 2014

From the judgment/order dated 17.11.2014 passed by the learned Single Judge in W.P. (C) No.5520 of 2014.

Smt. Prabha Ratho	Appellant
	Versus	
Joint Commissioner, Settlement & Consolidation, Orissa, Cuttack and another	Respondents

For Appellant : Mr. Niranjan Panda, Advocate

For Respondents : Addl. Government Advocate.

P R E S E N T:

**THE HON'BLE CHIEF JUSTICE MR. AMITAVA ROY
AND
THE HON'BLE DR. JUSTICE A.K.RATH**

Date of hearing and judgment: 29.11.2014

Dr. A.K. Rath, J. Challenge is made to the order dated 17.11.2014 passed by the learned Single Judge in WP(C) No.5520 of 2014. By the said order, learned Single Judge dismissed the writ petition and thereby confirmed the order dated 24.2.2014 passed by the Joint Commissioner, Settlement and Consolidation, Orissa, Cuttack, respondent no.1, refusing to correct the record-of-right in favour of the appellant.

2. As would be evident from the materials on record, the petitioner-appellant filed Revision Case No.184 of 2013 before the Joint Commissioner, Settlement and Consolidation, Orissa, Cuttack, respondent no.1, under Section 37(1) of the Orissa Consolidation of Holdings and Prevention of Fragmentation of Land Act, 1972 (hereinafter referred to as "the Act") for correction of record of right in respect of

consolidation Khata No.464, Plot No.948, area of Ac.0.42 dec. and Plot No.949, area of Ac.7.69 dec. of Mouza-Kurunti on the ground, inter alia, that the Addl. Tahasildar, Cuttack Sadar, settled Khata No.401/13, Plot No.1150, area of Ac.8.11 dec. in Vesting Case No.3810 of 1976. The Addl. Tahasildar in his order had settled Khata No.439, Plot No.1150, area of Ac.8.11 dec. in favour of Smt. Annapurna Dibya widow of Choudhury Jadunath Das of Bhingarpur, P.S. Baliana, Dist-Puri as per G.O No.14399 dated 2.3.1964 on the basis of the report of the R.I. Before the respondent no.1, the Tahasildar, Baranga submitted para-wise comments stating therein that O.E.A Revision Case Nos.07/12 and 08/12 had been filed by the Collector, Cuttack before the Member, Board of Revenue, Odisha, Cuttack. It was contended on behalf of the State of Odisha that the case land stands recorded in the Abadajogya Ananbadi Khata No.439 during Hal Settlement and R.O.R had been finally published on 2.1.1974. After hearing the matter at length, the respondent no.1 held that the vesting of the case land had not been confirmed by the Board of Revenue as required under Section 5(i) of the O.E.A Act, 1951. Further, O.E.A Revision Cases are sub judiced before the Member, Board of Revenue, Orissa, Cuttack which includes the case khata. Having held so, the respondent no.1 dismissed the application. Learned Single Judge did not decline to interfere with the order passed by the respondent no.1.

3. Heard Mr.N. Panda, learned counsel for the appellant.

4. Mr.Panda, learned counsel for the appellant, submits that in Vesting Case No.3810 of 1976, the Addl. Tahasildar, Cuttack, settled the land in favour of Smt. Annapurna Dibya widow of Choudhury Jadunath Das of Bhingarpur, P.S. Baliana, Dist-Puri by virtue of G.O No.14399 dated 2.3.1964. He further submits that the respondent no.1 has committed a manifest illegality and impropriety in not correcting the record-of-right.

5. O.E.A Revision Case Nos.07/12 and 08/12 have been filed by the Collector, Cuttack before the Member, Board of Revenue, Odisha, Cuttack. It is evident from the materials on record that the case land stands recorded in Abadajogya Ananbadi Khata No.439 during Hal Settlement and R.O.R has been finally published on 2.1.1974 in the name of the State of Orissa. The order passed by the respondent no.1 is the

subject-matter of decision in the aforesaid O.E.A Revision Cases. In view of the same, we are of the considered opinion that the order passed by the respondent no.1 is perfectly legal and valid and does not call for interference by this Court. The learned Single Judge has rightly dismissed the writ application.

The appeal being devoid of merit stands dismissed.

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DR. A.K.RATH, J.

AMITAVA ROY, C.J. : I agree.

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AMITAVA ROY, C.J

Orissa High Court, Cuttack.
The 29th November, 2014/pks