



IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.26656 of 2024

Abhimanyu Mishra

....

Petitioner

Mr. A.K. Mishra, Advocate

-Versus-

State of Odisha and others

....

Opposite Parties

Mr. D.K. Behera, ASC

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
30.10.2024

Order
No.
01.

1. Heard Mr. Mishra, learned counsel for the petitioner and Mr. Behera, learned ASC for the State.
2. Instant writ petition is filed by the petitioner for a direction to opposite party No.3 to reconsider mutation of the case land on the grounds stated.
3. Mr. Mishra, learned counsel for the petitioner submits that such mutation applied for by the petitioner has been rejected on the premise that the source of title being based on a Will required probate, which is not necessary in the erstwhile princely States, hence, therefore, the impugned order dated 19th February, 2024 under Annexure-1 is not sustainable in law, hence, to be set aside with the matter remanded back for a fresh disposal according to law.
4. A copy of the Will is at Annexure-2.



5. Perused the impugned order under Annexure-1.
6. Referring to a decision in **Siba Sankar Sahoo Vrs. The State of Odisha and others 2022 (II) OLR 1030**, a copy of which is at Annexure-5, Mr. Mishra, learned counsel for the petitioner submits that the mutation authority could not have passed the impugned order under Annexure-1 on the premise that Will involved required to be probated, which is not correct. In the decision (supra), as according to Mr. Mishra, learned counsel, probate of the Will in the district of Bolangir is not a requirement of view referring to the decision in **Siba Sankar Sahoo** (supra).
7. Having regard to the facts pleaded on record and submission of Mr. Mishra, learned counsel for the petitioner and objection of Mr. Behera, learned ASC for the State and regard being had to the settled legal position reaffirmed by this Court in **Siba Sankar Sahoo** (supra), the Court is of the view that the probate of the Will since found to be not a requirement under law in respect of the area under consideration, so therefore, it was not right on the part of opposite party No.3, not to entertain the mutation in respect of case land and in passing the impugned order dated 19th February, 2024, hence, therefore, the same is liable to be set aside followed by a remand.
8. Hence, it is ordered.
9. In the result, the writ petition stands allowed. As a necessary corollary, the impugned order under Annexure-1 is hereby set aside with the matter remitted back for a fresh consideration by opposite party No.3 in connection with Mutation Case No.616 of



2023 disposal of which shall be ensured as soon as possible preferably within a period of four weeks from the date of receipt of a copy of this order, an exercise to be concluded after providing an opportunity of hearing to the petitioner.

10. Urgent certified copy of this order be issued as per rules.

(R.K. Pattanaik)
Judge

TUDU

Signature Not Verified

Digitally Signed
Signed by: THAKURDAS TUDU
Designation: Sr. Stenographer
Reason: Authentication
Location: OHC, CTC
Date: 04-Nov-2024 13:33:24

