

STATE OF ORISSA
v.
LOCHAN NAYAK (DEAD) BY LRS.

JULY 31, 2003

[V.N.KHARE, CJ., K.G. BALAKRISHNAN AND S.B. SINHA, JJ.]

Constitution of India, 1950

Article 226—Writ petition—Delay in filing—Allotment of land to respondents under The Orissa Land Reforms Act cancelled in 1986, as the same was found illegal—Writ petitions before High Court in 1992 challenging the cancellation—Writ petitions allowed—Government filed appeal before Supreme Court contending that the writ petitions filed by respondents before The High Court were extremely belated and suffered from laches—Held, the matters were decided in the year 1986, whereas the writ petitions were filed in the year 1992—There was an inordinate delay for which no sufficient cause was shown before the High Court and the High Court thus ought not to have entertained those writ petitions—Revenue authorities have directed to initiate de novo proceedings for allotment of land and if respondents found eligible, their case may also be considered—Delay/laches—Orissa Land Reforms Act, 1960—Orissa Land Reforms (General) Rules, 1965—R.33-A(10)(bb).

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 1681-1686 of 2003.

From the Judgment and Order dated 4.2.93, 25.2.93, 11.1.93, 4.2.93, 18.1.93 and 18.1.93 of the Orissa High Court in O.J.C. Nos. 9526, 461, 9622, 9524, 8295 and 462 of 1992.

WITH

C.A. Nos. 1617, 1618-45, 1646-54 and 1655-80 of 2003.

J.K. Das, Janaranjan Das, G. Biswal, Ms. M. Gahlot, S. Mishra, Anukul Ch. Pradhan, Shiv Sagar Tiwari, Ms. K. Sarada Devi, Bhupender Yadav, Ms. Babita Yadav and Ms. Asha Gopalan Nair for the appearing parties.

A The following Order of the Court was delivered :

B The respondents herein were allotted land under the provisions of the Orissa Land Reforms Act, 1960 (hereinafter referred to as 'the Act'). Under the provisions of law, which then existed, the Court was empowered to cancel the order of allotment within one year, if the same was found to be contrary to law. In the year 1980, by virtue to Rule 38-A (10)(bb) of the Orissa Land Reforms (General) Rules, 1965 (hereinafter referred to as 'the Rules'), the Commissioner of Division was given the power to *suo motu* cancel the land at any time. It appears that the Commissioner of Division in the year 1984, in exercise of his power, revoked the allotment of land made in favour of the respondents, having found that there were some procedural irregularities in the matter of allotment. In the year 1986, the respondents herein filed petitions under Article 226 of the Constitution before the High Court of Orissa, challenging the order passed by the Divisional Commissioner, revoking the settlement of land in their favour. The High Court allowed the writ petitions and remanded the matter to the Revenue Officer and concerned Sub-Divisional Magistrate for deciding the matter afresh. In the same year, the Revenue Officer cancelled the allotment of land in favour of the respondents having found that the said allotment was illegal. In the year 1992, the respondents herein filed petitions under Article 226 of the Constitution before the High Court of Orissa. The High Court allowed the writ petition by reason of the impugned order dated 4.2.93, *inter alia*, on the ground that the power of *suo motu* revision has been exercised after an inordinate delay. Aggrieved, the State of Orissa has filed these appeals by way of special leave petitions. Although there was a considerable delay in filing these appeals, this Court, while granting leave, condoned the delay. That is how the matters came up before us.

G Learned counsel appearing for the appellant urged that as the writ petitions filed by the respondents herein were extremely belated and suffered from laches, the High Court ought not to have entertained the petitions. We find substance in the argument. What we find here is that the matters were decided in the year 1986, whereas the writ petitions were filed in the year 1992. There was an inordinate delay for which no sufficient cause was shown before the High Court and the High Court thus ought not to have entertained those writ petitions. On this short ground, the judgments under challenge deserve to be set aside.

H

The appeals are allowed. There shall be no order as to costs.

A

Before we part with the case, we may observe that the Revenue Officer/ Sub-Divisional Magistrate/Collector directed initiation of *de-novo* proceeding and allot the land in accordance with law. The authorities concerned shall give effect to the said order and if the respondent is found to be eligible for grant of lease, his case may also be considered in accordance with law alongwith the other eligible persons.

B

R.P.

Appeals allowed.