

**IN THE COURT OF REVENUE DIVISIONAL COMMISSIONER,
SOUTHERN DIVISION, ODISHA, BERHAMPUR**

OGLS Case No. 5/18

(Order by Sri T. Ao, I.A.S, Revenue Divisional commissioner, (SD), Berhampur)

Decided on 14.10.2019

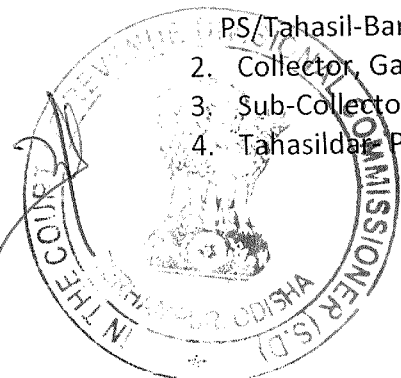
1. Trinath Mishra, S/o- Late Harihar Mishra
 - (a) Rajani Mishra, W/o- Late Trinath Mishra
 - (b) Pradeep Kumar Mishra S/o- Late Trinath Mishra
 - (c) Sanjay Kumar Mishra S/o- Late Trinath Mishra
SI a, b & C are residing of
villate –N. Gopinathpur
PO/PS-Polasara Dist Ganjam
 - (d) Sandyarani Dash
D/o-late Trinath Mishra, W/o- Subhramani Dash
Vill/Po-Digapada
PS/Tahasildar-Kodala
Dist-Ganjam
- 2 . Gopinath Mishra S/o- Lata Harihara Mishra
Village- N. Gopinathpur
Po/Ps-Polasara Dist-Ganjam

.....Petitioner

-Versus-

1. Urbasi Mishra (dead), W/o- Late Narasingha Mishra
 - (a) Ranjita Panda, D/o-late Narasingha Mishra
Vill- N. Gopinathpur, Po.Ps- Polasara
Dist- Ganjam
 - (b) Sanjukta Dash, W/o- Akshyaya Kumar Dash
D/o- Late Narasingha Mishra
 - (c) Prasanna Kumar Mishra
S/o- late Narasingha Mishra
 - (d) Tarini Mishra
S/o- Late Narasingha Mishra
 - (e) Chittaranjan Mishra
S/o- Late Narasingha Mishra
b, c, d, & e are residents of Village- N. Gopinathpur
Po/Ps-Polasara, Dist- Ganjam
At present Residing at village-Lahangadihi
Po-Gambharimunda
PS/Tahasil-Banapur, Dist Khurda
2. Collector, Ganjam
3. Sub-Collector, Chhatrapur, Ganjam
4. Tahasildar Polasara

..... Respondent



Prayer

This appeal petition is filed U/s-7 of OGLS Act, 1962 to set aside the orders Dtd.16.12.2017 of Collector,Ganjam and to order for recording of area of Ac.0.083 of Plot No. 1176, Ac. 0.029 of Plot No. 1086 and Ac. 0.019 of Plot No. 2380 of Khata No. 438 of Lunighati Gopinathpur mouza of Polasara Tahasil in favour of the Petitioner.

Contention:-

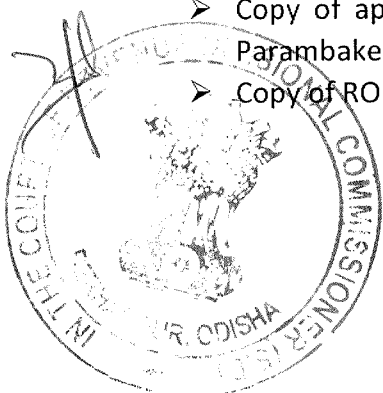
The petitioners Trinath Mishra, Gopinath Mishra and late Narasingha Misra (Husband of OP No.1) are three natural brothers. Late Narasingha Mishra on 01.06.1982 in the presence of some village gentlemen transferred the suit land in favour of Trinath Mishra and Gopinath Mishra after receiving money from them. The Petitioner Trinath Mishra has constructed a house on Plot No. 1176 and is using Plot No. 2380 as his backyard. The petitioner No. 2 Gopinath Mishra has constructed a house on Plot No. 1086 and both Trinath Mishra and Gopinath Mishra are residing in their respective constructed house over the suit plots with their families. In the year, 2016 Urbasi Mishra (OP No.1) filed an application in the Court of Tahasildar, Polasara to record the said land in her favour.The said land was recorded in favour of Urbasi Mishra as per Order Dtd.16.12.2017 of Collector,Ganjam.Hence the prayer to Set aside the orders of Collector,Ganjam and to order for recording of the suit Plots in favour of the Petitioner.

Land schedule

Sl No.	Mouza	Sabik Khata No.	Sabik plot No.	Kissam	Hal Khata No.	Hal Plot No.	Area
1	Lunighati Gopinathpur	--	--	Gharabari	438	1086	Ac. 0.02
						2380	Ac. 0.019
						1176	Ac. 0.083

Documents enclosed :-

- Copy of LCR of Gramakantha Lease Case No. 128/16
- Copy of application dtd. 22.12.2017 of Urbasi Mishra for settlement of Gramakantha Parambake land.
- Copy of ROR No. 438 published on 28.12.1985



- Copy of agreement dtd. 01.06.1982 between Narasingha Mishra, Trinath Mishra & Gopinath Mishra for transfer of suit lands.
- Copy of rent receipt of Khata No. 438 for the year, 1989-90, 2007-08, 2009-10, 2015-16, 2017-18
- Copy of Electricity money receipt of A/c No. 214201120186 of Trinath Mishra for the month of Sept No, 2017 October 2017, January 2018, December 2017, July 16, August 2016, Sept. 2016, October 16, November 18, January 2017 to July 2017 by Sri Trinath Mishra for connection No. 718
- Copy of payment receipt of Holding Tax for Holding No. 99 of Sri Trinath Mishra for the year, 1984-85, 1985-86, 1991-92, 1992-93, 2010-11, 2011-12, 2012-13, 2013-14, 2014-15
- Copy of payment receipt of Holding Tax for Holding No. 127 of Gopinath Mishra for the year, 2005-06
- Copy of approved building plan of Gopinath Mishra for Plot No. 438, Khata No. 1086.
- Copy of plaint of CS No. 18/2018 filed in the court of Civil Judge (Sr. Division), Kodola, Ganjam.
- Copy of order sheet of the court of Civil Judge (Sr. Division), Kodola, Ganjam.
- Copy of Yaddast No. 77 instituted for the Plot No. 1176, 2380, 1086
- Copy of Aadhaar Card No. 614633463533 of Rajani Mishra
- Copy of Aadhaar Card No. 696252411831 of Gopinath Mishra

Date wise briefing

- On 03.08.2018, the Advocate for the petitioner was present. In spite of prior issue of notices, the OPs were absent on call. The Advocate for the petitioner submitted that Trinath Mishra (petitioner No.1) Gopinath Mishra (petitioner No.2) and late Narasingha Mishra (Husband of OP No.1) are natural brothers. The suit plots were recorded in the name of late Narasingha Mishra in Gramakantha status. On 01.06.1982, in a family arrangement made in presence of village gentlemen, the suit plots were transferred in the name of the petitioners. The petitioners are residing in the houses constructed over the suit plots. Mrs Urbasi Mishra (OP No.1) has permanently settled at Khurda. The Tahasidar, Polsora has settled the suit plots in the name of Urbasi Mishra through GKLC Case No. 128/16. The Tahasildar, Polasara was asked to furnish the LCR.

ORDER

This case was heard for the final time on 03.08.2019. The Advocate for the petitioner was present. The Advocate for the respondent was also present. The Advocate for the petitioner stood on the contention of this revision petition. The Advocate for the respondent submitted copy of plaint and order sheet of CS No. 18/2018 filed in the court of Civil judge (Sr division), Kodala.



Perused the field verification report submitted by the Tahasildar, Polsara vide his Letter No. 2072 dtd. 15.04.2019 which reveals that:

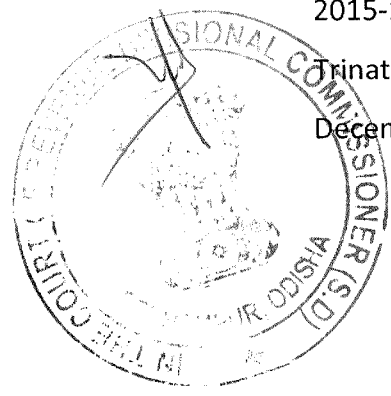
- An area of Ac. 0.029 of Hal Plot No. 1086 & Ac. 0.052 of Hal Plot No. 1176 of Hal Khata No. 438 are in possession of Gopinath Mishra
- Area of Ac. 0.031 of Hal Plot No. 1176 and Ac. 0.019 of Hal Plot No. 2380 area under possession of family of late Trinath Mishra.

Also perused the plaint and order sheet of C.S. No. 18/2018 filed in the court of Civil Judge (Sr. Division), Kodala which reveals that:

- This case was filed by Smt urbashi Mishra against Trinath Mishra and Gopinath Mishra.
- In this case Smt. Urbasi Mishra has claimed that she has made houses on Plot No. 1086, 2380 and 1176 of Khata No. 438 and gave on rent basis to Trinath Mishra and Gopinath Mishra since 02.07.2013 @ Rs. 1400/- per month. Sri Trinath Mishra and Gopinath Mishra were paying rent regularly, but stopped paying monthly rent from 01.03.17 and are in illegal possession of the suit houses. Urbasi Mishra has filed this case for recovery of possession of the suit scheduled houses from Trinath Mishra and Gopinath Mishra.
- The C.S. Case No. 18/2018 was take up for hearing on 11.05.2018 and heard for the last time on 21.08.2019 and the case was ordered to be put up for further hearing on 21.09.2019.

Findings

- Copy of LCR of Gramakantha Lease Case No. 128/16 shows that the suit plots were ordered to be recorded in favour of Smt. Urbasi Mishra.
- Copy of ROR No. 438 published on 28.12.1985 shows that the Hal RT of the suit plots was Smt. Urbasi Mishra.
- The field verification report of Tahasildar,Polsara shows that the Petitioners are in possession of the suit plots.
- Copy of rent receipt of Khata No. 438 for the year, 1989-90, 2007-08, 2009-10, 2015-16, 2017-18, Copy of Electricity money receipt of A/c No. 214201120186 of Trinath Mishra for the month of Sept No, 2017 October 2017, January 2018, December 2017, July 16, August 2016, Sept. 2016, October 16, November 18,



January 2017 to July 2017 by Sri Trinath Mishra for connection No. 718 and Copy of payment receipt of Holding Tax for Holding No. 99 of Sri Trinath Mishra for the year, 1984-85, 1985-86, 1991-92, 1992-93, 2010-11, 2011-12, 2012-13, 2013-14, 2014-15 indicates possession of the Petitioners over the suit land.

- The plaint copy of C.S. No. 18/2018 filed before the Court of Civil Judge (Sr Division), Kodala, Ganjam shows that the Civil Case relate to the suit plots mentioned in this OGLS appeal case running in this court.
- The copy of proceedings of Court of Civil Judge (Sr. Division) in Case No.18/18 shows that the case is still pending in the civil court.

As the matter is pending before a civil court, there is no reason for further hearing of this case in this court and the case is dropped.

This appeal case is disposed off accordingly.



Revenue Divisional commissioner,
Sothern Division, Berhampur