IN THE COURT OF THE COMMISSIONER OF ENDOWMENTS
ODISHA, BHUBANESWAR

Present: **Sri C.R.Mohapatra,**
Commissioner of Endowments,
Odisha, Bhubaneswar.

R.C. No 10 of 2018 U/S 9 of the O.H.R.E. Act 1951

1. Sri Santosh Kumar Sahu, aged 66 years,
   S/o Antaryami Sahu.
2. Abhimanyu Panda, aged 75 years
   S/o Late Arjun Panda.
3. Gopal Krushna patra, aged 57 years,
   S/o Late Sashi Bhusan Patra.
4. Biswanath Sahu, aged about 39 years,
   S/o Abhimanyu Sahu
   All are At- Laxmi Market, Baliguda, PO/PS-Baliguda, Dist. Kandhamal.

...Petitioners

-Versus-

1. Sri Jagannath Mohapravu,
   Temple Trust, Baliguda,
   through its Managing Trustee
   Sri Madhusudan Das, aged 65 years
   S/o Late Kishore Chandra Das,
   At/PO/PS-Baliguda,Dist. Kandhamal.

...Opp.Party

Adv. for the Petitioner: Sri R.K.Routray & Associates

Adv. for the O.Ps: Sri G.Mohanty

COURT OF THE COMMISSIONER OF ENDOWMENTS, ORISSA
BHUBANESWAR

21/8/19

Date of argument: **05.08.2019**

Date of Judgment: **21.08.2019**

ORDER

The challenge in this revision is to the order passed by the learned Addl. Asst. Commissioner of Endowments, Berhampur U/s 68 of the OHRE Act, 1951 directing the delivery of possession to the Trust Board.

2. The background facts giving arising to the filing of the present revision is that the Petitioners are the tenants under the O.P.No.1, Lord Jagannath Mohapravu Temple Trust, Baliguda. The Petitioners are occupying shop rooms on payment of rent at different rate of rent. The Petitioners are also giving regular rent to the Trustee. They are also willing to pay rent as usual. It is pertinent to mention here that, prior to formation of the Trust Board on 26.7.16 the management of the temple was being undertaken by one Parichalana Committee consisting of local people under the supervision of Sub-Collector and I.I.C, Baliguda. After formation of Trust Board the Managing Trustee requested the Petitioners not to pay any rent dues to anybody except to the legally constituted Trust Board represented by the Managing Trustee. The Managing Trustee also requested the Petitioners to produce documents, agreements or money receipts, if any. But the Petitioners could not produce any such documents nor did they pay the rents to the Managing Trustee (Respondent No.1). The Petitioners also did not vacate the shop rooms premises. Then the Managing Trustee (O.P.No.1) filed an application U/s 68 of the O.H.R.E Act praying for issuing direction to the Petitioner to give delivery of possession of the

COURT OF THE COMMISSIONER OF ENDOWMENTS, ORISSA BHUBANESWAR

shop rooms No.9,10,16,17,08 & 18. The learned Addl. Asst. Commissioner of Endowments, Berhampur passed order dt. 23.2.2018 directing the delivery of vacant possession to the O.Ps of the shop rooms held by the Petitioner.

3. Being aggrieved by the order of the Addl. Asst. Commissioner of Endowments, Berhampur, the Petitioners filed the present revision on the following grounds:-

4. That the Petitioners are occupying the suit shop rooms on payment of regular rent. They have also given advance for construction of those shop rooms. They are also ready to pay the rent to the newly formed Non Hereditary Trust Board appointed by the Addl. Asst. Commissioner of Endowments, Berhampur. They are the bonafide tenants and they are entitled to possess the shop rooms.

5. The O.P has not filed any written counter. Basing on the premises of the averments made in this revision and the submission made by the learned counsel for the O.Ps, the following points emerge for adjudication.

(i) Is the Revision application is maintainable

(ii) Is the order of the learned A.A.C is liable to be setaside?

6. The Revisional jurisdiction of the Commissioner of Endowments has been in section 9 of the Orissa Hindu Religious Endowments Act, 1951. It empowers the Commissioner of Endowments to call for and examine the records of any proceeding before the Deputy Commissioner or Asst. Commissioner of Endowments to satisfy himself as to the regularity or correctness or legality or propriety of any decision or order passed in the proceeding.

7. The learned counsel for the Petitioner contends that the impugned order is wrong, illegal and perverse. They admit that they are the tenants duly inducted by the trustee of the institution. In other words they admit their status as tenants of the deity. It is admitted that the shop rooms belong to the deity Lord Jagannath Temple Trust.

8. The Revision owes its origin to O.A.No.6 of 2017. In that OA, as revealed from the lower court record, it has been filed by the Managing Trustee of the institution praying for passing order directing the petitioners to deliver physical possession of the shop rooms of the deity and pay all outstanding dues arrear and damages. Accordingly the Managing Trustee Sri Madhusudan Das has adduced oral evidence as P.W.1. It is in his evidence that he is the Managing Trustee vide order No.1226 dt. 26.7.16 of the Addl. Asst. Commissioner of Endowments, Berhampur. He has taken over possession of the temple and rented shop rooms on 30.8.16 from the previous President. The O.Ps were in occupation of the scheduled shop rooms. After assuming charge, he issued letters to the Petitioners to produce documents like Money receipts relating to rented shop rooms and making payment of rent dues. But the O.Ps failed to comply the letters. The Petitioners are not paying any rent to him, though they are occupying the shop rooms of the deity. For that the O.Ps seeks relief of delivery of vacant possession of the shop rooms. The O.P.No.1, the Managing Trustee has filed the copy of the order of the Addl. Asst. Commissioner of Endowments, Berhampur appointing him as trustee along with others. The Managing Trustee has also proved postal receipts and office notices sent to the Petitioners.

COURT OF THE COMMISSIONER OF ENDOWMENTS, ORISSA
BHUBANESWAR

9. The learned Addl. Asst. Commissioner of Endowments has duly appreciated the evidence adduced by the Managing Trustee (P.W.1) in para-5 of his judgment. The Managing Trustee (O.P) has proved his status as Managing Trustee and the notices issued to the shop owners.

10. On the other hand the Petitioners, in revision, petition admits that they are the tenants of the O.Ps. They have averred in para-4 of the revision petition that they are ready and willing to pay the arrear and current rent to the O.P.No.1. But it is not in their revisional application that they have paid off the rent. Section 68 of the OHRE Act provides that when a person has been appointed as a trustee and such person is resisted in obtaining possession of the property and endowments of the deity, the Addl. Asst. Commissioner of Endowments, on application by the person so appointed direct to delivery of possession to the trustee.

11. In the instant judgment passed by the Addl. Asst. Commissioner of Endowments, it is discernible that the learned Addl. Asst. Commissioner of Endowments has legally passed order directing delivery of the property and endowments of the deity to its legally constituted Trust Board represented by the Managing Trustee basing upon his order of appointment. In the lower court the Petitioners also admit in para 7 of their objection that the O.P Sri Madhusudan Das has taken over the charge of the Endowments of the deity and issued letter to them accordingly. There is no material evidence that the Petitioners are paying rent to the present Managing Trustee though admitted to be possessing. The learned Addl. Asst. Commissioner of Endowments has rightly held that the petitioners do not challenge

the status of the O.P as the Managing Trustee. The Petitioners have not adduced any evidence in the lower court. Hence, the order & judgment of the learned Addl. Asst. Commissioner of Endowments directing delivery of possession by the Petitioner No.1 to 6 is legally sustainable. It does not suffer from any infirmity or impropriety and irregularity. The Revision petition is maintainable. The judgment & order of the learned Addl. Asst. Commissioner of Endowments is not liable to be set aside. Hence ordered:-

ORDER

The Revision application is hereby dismissed on contest without cost. The judgment and order passed by the learned Addl. Asst. Commissioner of Endowments in O.A.No.6 of 2017 U/s 68 of the OHRE Act is hereby confirmed. The Petitioners are directed to give delivery of vacant possession of the suit schedule shop rooms to the Managing Trustee (O.P.No.1) within 30(thirty) days.

COURT OF THE COMMISSIONER OF ENDOWMENTS, ORISSA
BHUBANESWAR

Commissioner of Endowments,
Odisha, Bhubaneswar

21/8/19

The Judgment is typed to my dictation and corrected by me and pronounced in the Open Court on this the 21st day of August 2019 under my signature and seal of this court.

Commissioner of Endowments,
Odisha, Bhubaneswar

21/8/19