

IN THE HIGH COURT OF ORISSA AT CUTTACK

O.J.C. No.478 of 1996

Trilochan Behera & Anr.

Petitioner(s).
....
Mr.P.K.Routray, Advocate

-versus-

***Commissioner, Consolidation,
Orissa, Cuttack & Ors.***

Opposite Party(s)
....
Mr.S.P.Panda, AGA

**CORAM:
JUSTICE BISWANATH RATH**

ORDER

30.09.2022

Order No.

10

1. Heard learned counsel appearing for the parties.
2. Simple question involved herein is that in the event institution of an objection case under Section 9 of the O.C.H. & P.F.L. Act, 1972 even assuming there is pendency of a civil suit, looking to the nature of civil suit as the suit involved injunction involving no declaration of right, title and interest, if the consolidation proceeding has to be continued or not?
3. Considering the rival contentions of the parties and after getting into the civil dispute pending between the parties, this Court finds there is no dispute between the parties that the civil suit was only for injunction. This Court finds there is no involvement of right, title, interest and declaration involving such suit. Even assuming the suit involves a declaration of right, title and interest, for the settled position of law for operation of Section 4 O.C.H. & P.F.L. Act, the suit should have been abated instead of directing stay of consolidation proceeding. In the peculiar circumstance and , for the

suit only involves injunction there is even no requirement of stay of suit.

4. In the circumstance, this Court interferes the impugned orders at Annexures-1, 3 and 4 and as a consequence sets aside the same thereby remitting the matter back to the stage of Section 9 proceeding for fresh disposal of such proceeding. Private opposite parties involved herein are directed to appear before the Consolidation Authority on 17.10.2022 and take date of further hearing.

5. The writ petition stands disposed of accordingly.

(Biswanath Rath)
Judge

sks

