

IN THE HIGH COURT OF ORISSA AT CUTTACK

O.J.C. No.1644 of 1999

Lokanath Behera & Anr.

....

Petitioner(s)

Mr. D. Mohapatra,
Advocate

-versus-

***The Joint Commissioner,
Settlement & Consolidation & Anr.***

....

Opposite Parties

Mr. S.P. Panda,
Addl. Govt. Adv.
Mr. N.C. Pati,
Adv.

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
11.03.2022**

Order No.

32. 1. On further hearing of the matter and pursuant to the detail order on 9.03.2022, today in course of hearing of the matter, there is a clear statement by the learned counsel for the contesting Opposite Parties that there is no materials available in agitating the question involving validity of the transaction of the property by the mother involved as the mother guardian. There is no such plea even taken in the foundation court and the Consolidation Officer and such ground was not available before the Revisional Authority for consideration. This position has also been confirmed by the learned Counsel for the contesting Opposite Parties on going through the objection of such party in the foundation Court itself. This Court thus finds, there was no occasion for the Revisional Authority to get into the aspects not

available for consideration. Thus committed wrong in interfering in the impugned order at Annexures-1 & 2 and reversing the same. Further there is also recording in the previous order that for the own submission of the Opposite Parties that there exists a previous settlement, further on spot visit by the Consolidation Officer, there is also recording by the Consolidation Officer in the order involving the Original Proceeding that not only there is previously partition, but the parties are also in enjoyment of their share in terms of such partition and thus are in possession of the disputed property. In the circumstance this Court finds, there is no ground to entertain the revision. For the discussions made in the order dated 9.03.2022 and the observation made hereinabove, this Court finds, there is mechanical disposal of the revision. As a consequence this Court interfering in the order at Annexure-3 sets aside the same in restoration of the order at Annexure-1.

2. This writ petition succeeds.

(Biswanath Rath)
Judge