

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.12926 of 2007

Krushna Mohan Behera & Anr.

Petitioner(s)

Mr. P.R. Barik,
Advocate

-versus-

Jayakrushna Choudhury & Ors.

Opposite Party(s)

Mr. S.D. Das,
Sr. Adv. for O.P.2
Mr. S. Ghose,
Addl. Govt. Adv. for O.Ps.9 to 11

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
13.12.2022**

Order No.

12.

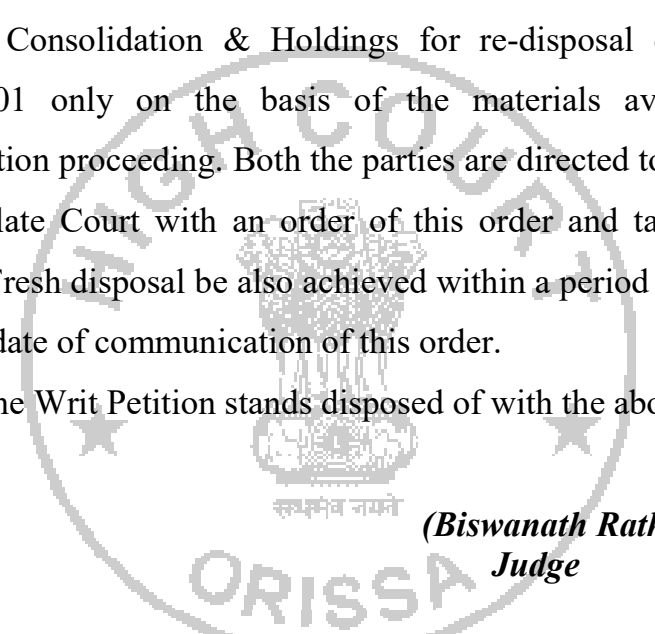
1. This Writ Petition involves a challenge to the order of the appellate authority as well as the revisional authority in exercise of power under the provisions of the O.C.H. & P.F.L. Act.

2. Considering the rival contentions of the parties, taking into account the grounds stated in this writ petition and also keeping in view the decision of the Full Bench in the case of ***Srinibas Jena & Ors. Vrs. Janardan Jena & Ors.*** as reported in **AIR 1981 Orissa 1** where the Full Bench has already observed, once a suit is abated, it will be treated as nothing has happened in the civil suit, this Court finds, the dispute involved herein involves two properties i.e. A(1) schedule of land and A(2) schedule of land. Keeping in view the grounds stated herein and the reasons assigned in the impugned order this Court finds, in taking a decision on both A(1) & A(2) schedule property the appellate authority as well as the revisional authority have taken

support through the evidence and pleadings in T.S. No.18 of 1981 which stood abated. For the decision in the case of ***Srinibas Jena*** (supra), development, if any, in an abated suit is of no use. For the opinion of this Court both the appellate authority as well as the revisional authority adopted wrong approach and the impugned decision remains contrary to the position of law.

3. This Court, in the circumstance, interfering in the impugned order at Annexures-2 & 3, sets aside the both and for there is requirement of fresh disposal of appeal, remits the matter to the Deputy Director, Consolidation & Holdings for re-disposal of the Appeal No.28/2001 only on the basis of the materials available in the consolidation proceeding. Both the parties are directed to appear before the appellate Court with an order of this order and take the date of hearing. Fresh disposal be also achieved within a period of four months from the date of communication of this order.

4. The Writ Petition stands disposed of with the above order.

The seal of the Orissa High Court is a circular emblem. It features the Ashoka Lion Capital in the center, with the motto 'Satyameva Jayate' in Devanagari script below it. The words 'HIGH COURT' are written in an arc at the top, and 'ORISSA' is written in an arc at the bottom. Two stars are positioned on either side of the central emblem.
(Biswanath Rath)
Judge