

**IN THE HIGH COURT OF ORISSA AT CUTTACK**  
**W.P.(C) No.5084 OF 2003**

***Rajkishoro Panda and others*** .... ***Petitioner(s)***  
Mr.S.K.Nayak 2,  
Advocate

-versus-

***Commissioner, Consolidation,  
Cuttack and others*** .... ***Opposite Party(s)***  
Mr.S.Mishra,  
ASC

**CORAM:**  
**JUSTICE BISWANATH RATH**

**ORDER**  
**23.08.2022**

**Order No.**

16. 1. Heard learned counsel for the Parties.
2. In course of hearing, it has been brought to the notice that Opposite Party No.9 involved herein died on 25.04.1996 and Opposite Party No.21 died in 1990. Both these deaths have taken place even prior to the disposal of Appeal at Annexure-2 on 31.08.1995. It has also been brought to the notice that Opposite Party No.19 herein also died in 1997 in the pendency of revision and revision order is also against all these dead parties.
3. It is keeping the above in view, this Court is of opinion that the Appeal order involved the dead persons. Death of both taking place prior to the disposal of the appeal. This Court therefore is of opinion that order in the Appeal vide Annexure-2 is not sustainable. As a consequence, the revisional order also does not survive. In the result, this Court sets aside the orders at Annexures-2 & 3 and remits the matter back to the Competent Authority in session of Appeal Case No.7 of 1995, a proceeding under Section 12 of the O.C.H. & P.F.L. Act, 1972 for undertaking a fresh exercise in the Appeal but however

after steps for substitution of the Parties died in the meantime is undertaken by the Appellant therein. Since the matter is disposed of in presence of survival Parties and also involving the State, all the Parties are directed to appear before the Appellate Authority on 8<sup>th</sup> September, 2022. It is also open to the appellant to file substitution application at least within a period of two weeks from the date of appearance. The Appeal be disposed of within a period of four months for the date of appearance of the parties.

***(Biswanath Rath)***  
***Judge***

***Swarna***

