

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.16038 OF 2008

Jagannath Palai

....

Petitioner(s)

M/s. N.K.Sahu,
Advocate

-versus-

***Commissioner, Consolidation,
Orissa, Bhubaneswar and others***

....

Opposite Party(s)

Mr.U.K.Sahoo,
ASC

CORAM:
JUSTICE BISWANATH RATH

ORDER

07.09.2022

I.A. No.2264 of 2019

Order No.

03.

1. This is an application for substitution of the deceased Petitioner.
2. Since the Vakalatnama on behalf of the legal heirs of the deceased Petitioner has already on record, this application for substitution stands allowed.
3. I.A. stands disposed of.

(Biswanath Rath)
Judge

ORDER

07.09.2022

W.P.(C) No.16038 of 2008

Order No.

04.

1. Heard learned counsel for the Parties.
2. Factual background involving in the first stage of proceeding under Section 36 of the O.C.H. & P.F.L Act, revision was disposed of recording the statement of learned counsel for the Petitioner that he has no instruction from his client. Coming to know such development, it appears the Petitioner therein filing an application for recalling such order by way of restoration accompanying limitation petition for there is undisputedly delay of six months. Considering such application Since Commissioner, Consolidation did not satisfying on the ground of delay while rejecting Section 5 application therein also came to reject the application for restoration.
3. Considering the substance involved herein that the Petitioner never authorized the counsel to drop the proceeding for no instruction and once such statement is brought by way of application that such application is required to be considered positively. Further looking to the nature of proceeding under Section 36 of the O.C.H. & P.F.L Act, such matter cannot be disposed of technically.
4. Keeping this in view this Court interferes in the impugned order at Annexure-4, condoned the delay thereby restoring Misc. Case No.19 of 2007. Since there is no lawful decision involving Misc. Case No.19 of 2007, this Court remits the matter back to the Commissioner, Consolidation, Orissa, Bhubaneswar for hearing the Petitioner on the merit involving the Misc. Case No.19 of 2007 and passing appropriate order. Petitioner is directed to appear before the Revisional Authority on 21st September, 2022 along with copy of the

order and the application involved shall be decided in accordance with law.

5. The Writ Petition stands disposed of.

(Biswanath Rath)
Judge

Swarna

