

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.188 of 2018

Bhobani Pradhan.

....

Appellant

Mr. Sanjib Swain, Advocate

-versus-

Manguli Pradhan and others

....

Respondents

*Mr. Anam Charan Panda, Advocate
(For Respondent No.1)*

**CORAM:
THE CHIEF JUSTICE
JUSTICE M. S. RAMAN**

**ORDER
26.10.2022**

Order No.

03. 1. The challenge in the present appeal is to order dated 19th March, 2018 passed by the learned Single Judge in OJC No.13450 of 2000. While allowing the writ petition and setting aside the impugned order dated 7th November, 2000 of the Director of Consolidation, Odisha, Cuttack in Consolidation Revision Case No.2722 of 1998, the learned Single Judge observed that since the land in question was homestead land, the Director of Consolidation lacked the jurisdiction to decide the matter in exercise of the power under Section 37(2) of the Orissa Consolidation of Holdings and Prevention of Fragmentation of Land Act, 1972 ('the Act').
2. On coming to a conclusion that the homestead land was outside the purview of the Act, the learned Single Judge perhaps did not notice the amendments notified on 16th March, 1989. By virtue of the said amendments, according to the counsel for the Appellant, it was possible for the Director of Consolidation, Odisha, Cuttack to

effect changes in the R.O.R., even to homestead land, a point which is disputed vehemently by the counsel appearing for Respondent No.1.

3. It is apparent on the face of the impugned order dated 19th of March, 2018 that the attention of the learned Single Judge perhaps not drawn to the above Amendment Act. Consequently, without expressing any view on either of the contentions of the parties on the amended provisions, as recorded above, this Court while setting aside the impugned order of the learned Single Judge dated 19th March, 2018 restores the OJC No.13450 of 2000 to the file of the learned Single Judge for being considered afresh in the light of the above amendment provisions. The writ petition will be listed before the Roster Bench of the learned Single Judge on 10th of January, 2023, on which date both parties will appear. Considering that this is an old matter, the learned Single Judge is requested to proceed with the matter and dispose of the same as expeditiously as possible and preferably within a period of six months thereafter.

4. The writ appeal is, accordingly, disposed of. The interim order passed by this Court on 18th June, 2018 will continue during pendency of the writ petition before the learned Single Judge.

(Dr. S. Muralidhar)
Chief Justice

(M. S. Raman)
Judge