

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 479 of 2018

Udas Ashram, Jajpur

....

Appellant

Mr. Banshidhar Baug, Advocate

-versus-

State of Odisha and others

....

Respondents

Mr. Debakanta Mohanty

Additional Government Advocate for State

Mr. Susanta Kumar Baral, Advocate

Mr. A. Mahanta, Advocate

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

**ORDER
16.12.2022**

Order No.

08. 1. The challenge in the present writ appeal is to an order dated 21st August, 2018 passed by the learned Single Judge dismissing W.P.(C) No.12487 of 2015 filed by the present Appellant.
2. Before the learned Single Judge, the present Appellant had challenged an order dated 2nd July, 2015 passed by the Commissioner, Land Records and Settlement, Cuttack in Consolidation Revision No.34 of 2008 under Section 36 of the Odisha Consolidation of Holdings and Prevention of Fragmentation of Land Act, 1972 (OCH&PFL Act).
3. The main ground of challenge raised by the present Appellant was that the Commissioner had not afforded the Appellant an opportunity of being heard. As noted by the learned Single Judge,

the proceedings before the Commissioner took place on remand by this Court in a writ petition. However, before the Commissioner, neither of the parties, i.e., the present Appellant or Opposite Party No.6 appeared. The learned Single Judge then examined the merits of the case and found that the orders passed by the Consolidation Officer in favour of the present Appellant was not legally sustainable and, therefore, the Commissioner had rightly set it aside.

4. Having heard the present Appellant on merits, the learned Single Judge found no purpose of being served in remanding the matter to the Commissioner only for that purpose.

5. The Court is satisfied that the present Appellant has been heard on merits fully by the learned Single Judge although he may not have been heard by the Commissioner. The Appellant was unable to persuade the learned Single Judge that on merits the Appellant has a good case for reconsideration of the order of the Commissioner.

6. Having heard learned counsel for the parties, the Court is unable to come to a different view in the matter. Since no ground has been made out for interference, the writ appeal is dismissed.

7. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(M.S. Raman)
Judge