

ORISSA HIGH COURT : C U T T A C K

WP(C) NO.23008 OF 2022

In the matter of an application under Articles 226 & 227 of the Constitution of India.

A F R

Ullash Kumar Nayak

: Petitioner

-Versus-

State of Odisha & ors. :

Opp.Parties

For Petitioner : Mr.P.K.Khuntia

For O.P.1 : Mr.S.P.Panda, AGA

For O.Ps.2 to 11(b) : None

**CORAM :
JUSTICE BISWANATH RATH**

Date of Hearing & Judgment : 23.09.2022

1. The Writ Petition involves a challenge to the order of the Additional Commissioner, Settlement and Consolidation, Board of Revenue, Cuttack involving Revision Petition Case No.221 of 2018.

2. There is no denial in the Bar that the Authority exercising the power under Section 15(b) of the Orissa Survey and Settlement Act, 1958 (herein after called as “the O.S.S. Act”) is neither in the trap of an adjudication Authority in Civil Court nor even having the power like that of the Authority dealing with the power under Sections 9, 12, 36 & 37(1) of the O.C.H. & P.F.L. Act. Further there is no dispute in the Bar that

Section 15(b) of the O.S.S. Act is only aiming in preparation of Record of Rights merely on the basis of existing materials. Looking to the averments made, learned counsel for the Petitioner wants to bring the dispute between the Parties. For the Opinion of this Court, the dispute intra-party cannot be a subject matter under Section 15(b) of the O.S.S. Act. Further law has also been settled that correction of Record of Rights or preparation of Record of Rights neither creates any right in anybody's favour nor extinguishes the right of any party.

3. In the circumstance, best option for such party is to approach the Civil Court. While declining to interfere with the impugned order, this Court observes, in the event the Petitioner approaches the Civil Court, preparation, if any, involving such order shall however be ultimately abided by the judgment and decree to be passed in civil proceeding.

4. With this observation, the Writ Petition stands disposed of.

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(Biswanath Rath, J.)

Orissa High Court, Cuttack.
The 23rd September, 2022/M.K.Rout, A.R.-cum-Sr.Secy.