IN THE HIGH COURT OF ORISSA AT CUTTACK
WP(C) No.20252 of 2011
CNR No. ODHC010032352011

Sarathi Gouda ..... **Petitioner**
Represented by Adv.
Mr. M. Mohanty,

-versus-

Digambar Gouda ..... **Opposite Parties**
Represented by Adv.
Mr. Manoj Kumar
Pati,

CORAM:
MR. JUSTICE SASHIKANTA MISHRA

ORDER
29.10.2026

Order No. 06

1. This matter is taken up through hybrid mode.

2. Heard Mr. M. Mohanty, learned counsel for the petitioner, Mr. G. Mohanty, learned Standing Counsel for the State and Mr. M.K. Pati, learned counsel for the private Opposite Party.

3. The petitioner has approached this Court with the following prayer:-

> *"It is therefore prayed that this Hon'ble Court may graciously pleased to admit the writ application issue notice to the Opp. Parties calling upon them as to why the impugned order under Annexures- 4 and 6 shall not be quashed and SRP No.307 of 2008 pending before the Opp. Party No.7 shall not be re-heard afresh.*
>
> *If the opp. parties fail to show cause or show insufficient cause the said impugned orders under Annexures-4 and 5 may kindly be issued by issue of writ of certiorari and further be pleased to issue a writ of Mandamus to the Opp. Party No.7 to re-hear SRP No.307 of 2008 in presence of both*

parties and to dispose of the same within a time stipulated by this Hon'ble Court.

And pass any other order(s) direction(s) as this Hon'ble Court may deems fit and proper.

And for this act of kindness the petitioner, shall, as in duty bound ever pray."

4. It is seen that the revision filed under Section 15(b) of the OSS Act by the private opposite parties, being registered as SRP No.307 of 2008 was disposed of by order dated 21.07.2009 by the Joint Commissioner, Settlement & Consolidation, Berhampur

5. Perusal of the order reveals that after considering the facts of the case, the Commissioner remanded the matter to the Tahasildar, Kodinga**,** to do the needful after verifying the original ROR and other records. No adjudication on the revision application was actually undertaken and the matter appears was delegated to the Tahasildar. It is well-settled that the power under Section 15(b) of the OSS Act can be exercised only by the Member, Board of Revenue or officers authorized to exercise such power, but not the Tahasildar. Since a revision was preferred under the said provision, it was incumbent upon the revisional authority to have considered the rival contentions and to have adjudicated the dispute on merits, instead of sending it to the Tahasildar for resolution. This cannot be countenanced in law. It is stated at the Bar that the order has been carried out inasmuch as the Tahasildar has acted upon such order and has also issued ROR in favour of the private Opposite Parties.

6. This Court can only observe that if the foundation goes, the entire superstructure collapses. This is being said for the reason that the order passed by the Commissioner can, under no circumstances, be treated as valid in the eye of law so as to be acted upon. Therefore, any action taken pursuant to such order is also without any legal basis.

7. For the above reasons, therefore, the writ petition is allowed. The impugned orders are set aside. The matter is remitted to the revisional authority for hearing the revision under Section 15(b) afresh on merits, after granting opportunity of hearing to all parties. Since the revision is of the year 2008, the revisional authority shall do well to dispose of the same as early as possible, preferably within two months from the date of appearance of the parties. To cut short the delay, both parties are directed to appear before the revisional authority on 9th November, 2026 at 10.30 A.M. along with certified copy of this order for receiving instructions.

8. The matter shall be disposed of either by the same authority or any other authority, who may have been authorized to hear such revision by the government in the meantime.

(Sashikanta Mishra)
Judge

B.C. Tudu

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Signed by: BHIGAL CHANDRA TUDU
Reason: Authentication
Location: Orissa High Court, Cuttack
Date: 30-Oct-2026 15:14:51