

**(1999) 07 OHC CK 0036**

**In the Orissa High Court**

**Case No :** Original Jurisdiction Case No. 9866 of 1997

Chakrapani Sabat

APPELLANT

Vs

Commissioner of Consolidation and Others

RESPONDENT

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**Date of Decision :** 13-07-1999

**Acts Referred:**

**Citation :** (2000) 2 OLR 189

**Hon'ble Judges :** P.K. Misra, J

**Bench :** Single Bench

**Advocate :** B. Rath, B. Senapati, J.N. Rath, S.K. Jethy, M.K. Panda, S.B. Mohanty, P.S. Samantara, P.K. Panda and S.K. Patjoshi, for the Appellant; Additional Government Advocate for O.P. 1, Prakash Kr. Nayak and Subash Ch. Das for O.P. 2, for the Respondent

**Final Decision :** Allowed

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## **Judgement**

P.K. Misra, J.—This writ application is directed against the order dated 6.5.1997 passed by the Commissioner, consolidation, Orissa, Bhubaneswar, in Revision Petition No. 75 of 1995

2. Though several contentions have been raised, it is unnecessary to deal with all such contentions, as the matter is required to be remanded for fresh determination as the commissioner has not given sufficient opportunity of hearing to the present petitioner. 3. It has been asserted in paragraph - 11 of the writ petition that the present petitioner after receiving notice from the Commissioner appeared in person on 24.4.1997 and had requested for time to engage an Advocate and to file objection to the revision petition. It is further stated that the Commissioner asked a few questions in respect of the disputed land and posted the matter to 6.5.1997 and the petitioner remained under the bona fide impression that the case had been adjourned. However, on 6.5.1997, the petitioner learnt that the revision itself was allowed on 6.5.1997.

4. Though opposite party No.2 has entered appearance though

lawyer, no counter affidavit has been filed challenging the assertions made in paragraph-11 of the writ application. In such view of the matter, the assertions made in paragraph-11 are accepted as correct.

5. The questions relating to right, title and interest are to be decided by the consolidation authorities. In normal course, it is not expected of a litigant to be conversant with various provisions relating to various rights available under law. Right to be represented by a lawyer is a valuable right of a litigant and principles of natural justice require that wherever a party wants to be represented by a lawyer, opportunity should be given by the Court or Tribunal unless there is specific prohibition contained in any statute. Under the Orissa Consolidation of Holdings and Prevention of Fragmentation of Land Act, there is no bar for a litigant to be represented by a lawyer. In such view of the matter, the Commissioner should have given an opportunity to the present petitioner to be represented by a lawyer.

6. The impugned order is accordingly quashed and the matter is remanded to the Commissioner, Consolidation, for fresh disposal. The petitioner is directed to appear before the Commissioner in person or through a lawyer on 7th August, 2000. Opposite party No. 2 should also appear on the said date. Thereafter, the Commissioner after fixing suitable date and after giving opportunity to both parties, either in person or through lawyer, shall decide the matter in accordance with law without being influenced by any of the observations made in the earlier order. The writ application is accordingly allowed. There will be no order as to costs.