
(2000) 09 OHC CK 0040

In the Orissa High Court

Case No : Original Jurisdiction Case No. 3693 of 2000

Deepak Kumar Basu

APPELLANT

Vs

Commissioner, Consolidation and Others

RESPONDENT

Date of Decision : 15-09-2000

Acts Referred:

Citation : (2000) 2 OLR 556

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

Bench : Single Bench

Advocate : B. Routray, A.K. Baral, P.K. Dash and D.K. Mohapatra, for the Appellant; Additional Government Advocate for OPs. 1 to 3 and S.S. Rao for OPs. 4 and 5, for the Respondent

Final Decision : Allowed

Judgement

P.K. Misra, J.—Heard Mr. Routray for the petitioner, Mr. S.S. Rao for opposite parties 4 and 5 and learned Addl. Government Advocate for opposite parties 1, 2 and 3.

2. This writ application is directed against the order dated 17.7.2000 passed by the Commissioner, Consolidation, Orissa, Cuttack. After perusing the order, prima facie, I was inclined to issue notice to the Commissioner to appear in person and explain as to under what circumstances, the Compromise was not recorded in the revisional Court in spite of the direction of this Court on an earlier occasion in a writ petition filed by the very same party and the matter was directed to be placed before the Consolidation Officer. The learned Additional Government Advocate, however, states that possibly due to inexperience it dealing with legal matters, the Commissioner might have passed such an order. It has been held in the Division Bench decision of this Court reported in 73 (1992) C.L.T. 438(Raghunath Mukhi v. Chakrapani Mukhi (dead) and after him Musa Bewa and Ors.) that since civil rights of parties are decided by the Consolidation authorities, the Government should consider the question of manning such post by Judicial Officers. The tenor of the impugned order fully justifies such

sentiments expressed by the Division Bench of this Court. Be that as it may, instead of remanding the matter to the Commissioner again, I deem it proper to dispose of the entire case on the basis of the compromise. I quash all orders passed by the Consolidation authorities relating to the present petitioner and opposite parties 4 and 5 and direct that the properties belonging to the parties shall be recorded in accordance with the compromise petition. It appears that the compromise petition is now in the record of the Commissioner. Such compromise petition shall immediately be transmitted to the Tahsildar, Salipur, who is in charge. The Tahsildar is directed to correct the record in accordance with such compromise petition without insisting upon presence of the parties or their Advocates and shall report compliance with this order within a period of two months from the date of receipt of this order.

3. This order shall be communicated to the Commissioner as well as to the Tahsildar, Salipur.

4. Copy of the order shall also be communicated to the Chief Secretary to Government of Orissa, who is directed to consider the effect of the decision reported in 73 (1992) CUT 438.

Copy of this order shall be handed over to the Additional Government Advocate.