

(1991) 09 OHC CK 0022
In the Orissa High Court
Case No : O.J.C. No. 2929 of 1987

Mst. Premalata Dora and Another	Vs	APPELLANT
State of Orissa and Others		RESPONDENT

Date of Decision : 27-09-1991

Acts Referred:

Orissa Land Reforms Act, 1960 — Section 37

Citation : (1991) 2 OLR 523

Hon'ble Judges : S.K. Mohanty, J;A. Pasayat, J

Bench : Division Bench

Advocate : R. Ch. Mohanty, R.K. Mohanty and K.K. Samantaray, for the Appellant; Additional Government Advocate (for opp. party Nos. 1 to 5) and P. Panda, (for opp. party No. 12 (a)), for the Respondent

Judgement

A. Pasayat, J.—Though several contentions were raised in this writ application by the petitioners, we feel that dealing with one of them would suffice. The conclusion of the Member, Board of Revenue was to the effect that Premalata, widowed mother (petitioner No. 1) and her son Giridhari Dora (petitioner No. 2) constituted "a family" under the provisions of Section 37 (b) of the Orissa Land Reforms Act, 1960 (in short "the Act"). The conclusion of the Member, Board of Revenue is contrary to the view expressed by this Court in Jaga alias Jagannath Naik and Others Vs. The State of Orissa and Another, . ; and 1989 (II) OLR 15 : Suresh Mohanty v. Mst. Satyabhama Mohanty and Ors.. The language of Section 37(b) is crystal clear that a "family" in relation to an individual means the individual, the husband or wife as the case may be, of such individual and their children, whether major or minor, but does not include a major married son who as such had separated by partition or otherwise before 26th day of September, 1970, Mother is not covered within the definition of "family"" in Section 37(b) of the Act. This is significant because the proceeding for determination of celling surplus land if any was suo motu initiated by the Revenue Officer against petitioner No. 2, the son,

2. We therefore, vacate the order passed by the Member, Board of Revenue, Orissa, Cuttack (Annexure-5) and direct the Revenue Officer -cum-Tahasildar, Bargaih to re-dispose of the matter in accordance with law.

The writ application is allowed in part, No costs.

S.K. Mohanty, J.

I agree.