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**(2000) 07 OHC CK 0031**

**In the Orissa High Court**

**Case No :** Original Jurisdiction Case No. 4741 of 2000

Pabani Barik

APPELLANT

Vs

Collector and Others

RESPONDENT

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**Date of Decision :** 12-07-2000

**Acts Referred:**

Orissa Estates Abolition Act, 1951 — Section 8(1)

**Citation :** (2000) 2 OLR 185

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

**Bench :** Single Bench

**Advocate :** J.R. Dash, P.K. Routray, K.L. Dash and S.R. Dash, for the Appellant;  
Additional Government Advocate, for the Respondent

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## **Judgement**

P.K. Misra, J.—Heard learned counsel for the petitioner and learned Additional Government Advocate for the opposite parties. The present petitioner claiming to be a tenant has filed an application before the Tahsildar (opp. party No. 4) purporting to be one u/s 8(1) of the Orissa Estates Abolition Act. Under Annexure-2, the order of the Additional Tahsildar dated 25.1.1993, such claim was accepted. Thereafter appeal was filed before the Sub-Collector, Bhubaneswar, on behalf of the State. The Sub-Collector observed that since a suit was pending before the Civil Court, it was open to the parties to establish their respective claims in the said suit and there was no necessity of pursuing the matter. Subsequently, a suo motu revision has been initiated by the Collector and notice has been issued to the petitioner under Annexure-5.

2. It is not disputed that the present petitioner has filed T.S.No. 324 of 1996 which is now pending before the Civil Judge (Senior Division), Bhubaneswar. Law is well-settled that if a person is continuing as a tenant under the ex-intermediary, he shall continue to remain as a tenant under the State with the same terms and conditions. However, no judicial proceeding is contemplated to be initiated u/s 8( 1) of the Orissa Estates Abolition Act. Of course, it may be necessary to make some administrative enquiry for the purpose of finding out as

to whether rent should be accepted from a particular claimant or not, but any such order passed by the Tahsildar in purported exercise of jurisdiction u/s 8(1) of the Orissa Estates Abolition Act neither creates title in favour of the person nor extinguishes title. Now that the matter is pending before the Civil Court, the Civil Court is required to find out as to whether the petitioner was a tenant prior to the vesting and if it is so found, whether he was a tenant in view of Section 8(1) of the Orissa Estates Abolition Act. Such decision has to be taken by the Civil Court without being influenced by any observation made in the order of the Tahsildar dated 25.1.1993. In such view of the matter, there is no necessity to continue with the suo motu revision case No. 1/99 which may be dropped since the State Government will have opportunity of establishing its case in the suit and will not be prejudiced by dropping of the aforesaid revision.

3. The writ application is accordingly disposed of. There will be no order as to costs.