

**(2001) 04 OHC CK 0013**

**In the Orissa High Court**

**Case No :** Original Jurisdiction Case No. 14662 of 1999

Rasananda Rout

APPELLANT

Vs

Commissioner, Consolidation and Settlement and Others

RESPONDENT

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**Date of Decision :** 19-04-2001

**Acts Referred:**

Orissa Survey and Settlement Act, 1958 — Section 15

**Citation :** (2001) 2 OLR 163

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

**Bench :** Single Bench

**Advocate :** S.K. Purohit, P.K. Sahoo and K.M.H. Niamati, for the Appellant;  
A.G.A., for the Respondent

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## **Judgement**

P.K. Misra, J.—The petitioner has challenged the order passed by the Commissioner, Consolidation and Settlement, Orissa, Bhubaneswar, rejecting the revision of the petitioner u/s 15(b) of the Orissa Survey and Settlement Act, 1958. The petitioner claims that he has title over the disputed property, but the same has been wrongly recorded in Rakshit Khata of the State Government as Gochar land.

2. Law is well settled that Records-of-Rights neither create, nor extinguish title. The revisional authority has refused to entertain the matter as the revision had been file 15 days after the final publication of the Record-of-Rights. Since the question of title is involved and disputed questions of fact are likely to arise, it is more appropriate to direct the petitioner to file a suit for establishing his title.

3. The learned counsel for the petitioner apprehends that taking advantage of the wrong recording, the petitioner may be forcibly evicted from the disputed land. Law is well settled that no person can be forcibly evicted from a land without taking recourse to the appropriate procedure contemplated under the law. If any proceeding under the Orissa Prevention of Land Encroachment Act is initiated, it would be open to the petitioner to establish his right before such forum and even if any adverse decision is taken, the petitioner can always

establish his title before the Civil Court, as has been observed by this Court in the decision reported in 90 (2000) CUT 412 (Brundaban Sahoo v. Antaryami Sahoo and others).

4. The writ application is disposed of subject to aforesaid observation.